2015-2016

HOUSE ENVIRONMENT

MINUTES

Nancy Fox (Rep. Pat McElraft)

[redacted]m: Laura Holt-Kabel (Rep. Rick Catlin)
Sent: Wednesday, February 18, 2015 11:56 AM
To: Laura Holt-Kabel (Rep. Rick Catlin)
Subject: <NCGA> House Environment Committee Meeting Notice for Thursday, February 19, 2015 at 10:00 AM - CANCELLED
Attachments: Add Meeting to Calendar_LINC_.ics

Cancelled Notice

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2015-2016 SESSION

You are hereby notified that the **House Committee on Environment** will **NOT** meet as follows:

[redacted]Y & DATE: Thursday, February 19, 2015
[redacted]ME: **10:00 AM**
LOCATION: **544 LOB**
COMMENTS: **Rep. Catlin to Chair**

Respectfully,

Representative Rick Catlin, Co-Chair
Representative Pat McElraft, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 11:56 AM on Wednesday, February 18, 2015.

___ Principal Clerk
___ Reading Clerk – House Chamber

Laura Holt-Kabel (Committee Assistant)

Cancelled Notice

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2015-2016 SESSION

You are hereby notified that the **House Committee on Environment** will **NOT** meet as follows:

DAY & DATE: Thursday, February 26, 2015
TIME: **10:00 AM**
LOCATION: **544 LOB**
COMMENTS: **Chair: Rep. Pat McElraft**
Topic: Introduction To DENR

Respectfully,

Representative Rick Catlin, Co-Chair
Representative Pat McElraft, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 12:14 PM on Friday, February 27, 2015.

___ Principal Clerk
___ Reading Clerk – House Chamber

Nancy Fox (Committee Assistant)

Cancelled Notice

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2015-2016 SESSION

You are hereby notified that the **House Committee on Environment** will **NOT** meet as follows:

DAY & DATE: Thursday, March 5, 2015
TIME: **10:00 AM**
LOCATION: **544 LOB**
COMMENTS: **Rep. Rick Catlin, Presiding**

Respectfully,

Representative Rick Catlin, Co-Chair
Representative Pat McElraft, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 4:06 PM on Tuesday, March 03, 2015.

___ Principal Clerk
___ Reading Clerk – House Chamber

Nancy Fox (Committee Assistant)

Corrected #1:

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2015-2016 SESSION

You are hereby notified that the **House Committee on Environment** will meet as follows:

DAY & DATE: Tuesday, March 10, 2015
TIME: **1:30 PM**
LOCATION: **423 LOB**
COMMENTS:

NOTE: New time due to many Environment members being in Agriculture Meeting.

Respectfully,

Representative Rick Catlin, Co-Chair
Representative Pat McElraft, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 4:05 PM on Monday, March 09, 2015.

___ Principal Clerk
___ Reading Clerk – House Chamber

Nancy Fox (Committee Assistant)

House Committee on Environment
Tuesday, March 10, 2015 at 1:30 PM
Room 423 of the Legislative Office Building

MINUTES

The House Committee on Environment met at 1:30 PM on March 10, 2015, in Room 423 of the Legislative Office Building. Representatives Adams, Baskerville, Bradford, Brawley, Brisson, Brockman, Carney, Collins, Dixon, Hager, Harrison, Iler, Insko, Luebke, G. Martin, McElraft, McGrady, Millis, Steinburg, Stevens, West, and Yarborough attended.

Representative Pat McElraft, Chair, presided.
The Chair thanked everyone for coming including the House and Senate pages, and Sergeant at Arms.

The following bills were considered:
House Bill 157: Amend Environmental Laws

Rep. McElraft asked Vice- Chair, Rep. McGrady to chair today for the House Bill #157.

Rep. McGrady asked for a motion to hear the PCS; the motion was made by Rep. West.

Jennifer McGinnis and Jeff Hudson were asked to explain the PCS for HB 157.
(See Attachment #1)

Rep. Hagar sends forward an amendment, and Jennifer McGinnis explains.
(See Attachment #2)

After much debate and discussion the amendment was voted on and received a favorable vote.

Rep. Hagar made a motion to vote on the PCS, which was voted unfavorable to the original bill and favorable to the PCS, and re-referred to Finance.

The meeting adjourned at 2:05 pm.

Representative Pat McElraft, Chair
Presiding

Nancy Fox, Committee Clerk

ATTENDANCE

House Environment Committee

(Nancy Fox___ and Laura Holt-Kabel ___)

DATES															
Rep. Rick Catlin, Chair															
Rep. Pat McElraft, Chair	✓														
Rep. Jay Adams, Vice															
Rep. Nathan Baskerville	✓														
Rep. John Bradford	✓														
Rep. Bill Brawley	✓														
Rep. William Brisson	✓														
Rep. Cecil Brockman	✓														
Rep. Becky Carney	✓														
Rep. Jeff Collins	✓														
Rep. Jimmy Dixon	✓														
Rep. Mike Hager	✓														
Rep. Pricey Harrison, Vice	✓														
Rep. Frank Iler	✓														
Rep. Verla Insko	✓														
Rep. Paul Leubke	✓														
Rep. Grier Martin															
Rep. Chuck McGrady, Vice	✓														
Rep. Chris Millis	✓														
Rep. Bob Steinburg	✓														
Rep. Sarah Stevens	✓														
Rep. Roger West	✓														
Rep. Larry Yarborough	✓														
Staff:															
Jeffrey Hudson	✓														
Mariah Matheson	✓														
Jennifer McGinnis	✓														
Jennifer Mundt	✓														
Chris Saunders															

ATTACHMENT #1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H D

HOUSE BILL 157
PROPOSED COMMITTEE SUBSTITUTE H157-PCS40106-RI-1

Short Title: Amend Environmental Laws. (Public)

Sponsors:

Referred to:

March 5, 2015

A BILL TO BE ENTITLED

AN ACT TO AMEND VARIOUS ENVIRONMENTAL LAWS.

The General Assembly of North Carolina enacts:

PART I. INTERSTATE MINING COMPACT CLARIFICATION

SECTION 1. G.S. 74-37 reads as rewritten:

"**§ 74-37. Compact enacted into law.**

The Interstate Mining Compact is hereby enacted into law and entered into by this State with all other jurisdictions legally joining therein in the form substantially as follows:

INTERSTATE MINING COMPACT

...

Article V. The Commission

(a) There is hereby created an agency of the party states to be known as the "Interstate Mining Commission," hereinafter called "the Commission." The Commission shall be composed of one commissioner from each party state who shall be Governor thereof. Pursuant to the laws of his party state, each Governor shall have the assistance of an advisory body (including membership from mining industries, conservation interests, and such other public and private interests as may be appropriate) in considering problems relating to mining and in discharging his responsibilities as the commissioner of his state on the Commission. In any instance where a Governor is unable to attend a meeting of the Commission or perform any other function in connection with the business of the Commission, he shall designate an alternate, from among the members of the advisory body required by this ~~paragraph,~~paragraph or an official of the state environmental protection agency with responsibility for protecting and restoring lands affected by mining, who shall represent him and act in his place and stead. The designation of an alternate shall be communicated by the Governor to the Commission in such manner as its bylaws may provide.

(b) The commissioners shall be entitled to one vote each on the Commission. No action of the Commission making a recommendation pursuant to Article IV-3, IV-7, and IV-8 or requesting, accepting or disposing of funds, services, or other property pursuant to this paragraph, Articles V (g), V (h), or VII shall be valid unless taken at a meeting at which a majority of the total number of votes on the Commission is cast in favor thereof. All other action shall be by a majority of those present and voting: Provided that action of the Commission shall be only at a meeting at which a majority of the commissioners, or their alternates, is present. The Commission may establish and maintain such facilities as may be

necessary for the transacting of its business. The Commission may acquire, hold, and convey real and personal property and any interest therein.

(c) The Commission shall have a seal.

(d) The Commission shall elect annually, from among its members, a chairman, a vice-chairman, and a treasurer. The Commission shall appoint an executive director and fix his duties and compensation. Such executive director shall serve at the pleasure of the Commission. The executive director, the treasurer, and such other personnel as the Commission shall designate shall be bonded. The amount or amounts of such bond or bonds shall be determined by the Commission.

(e) Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director with the approval of the Commission, shall appoint, remove or discharge such personnel as may be necessary for the performance of the Commission's functions, and shall fix the duties and compensation of such personnel.

(f) The Commission may establish and maintain independently or in conjunction with a party state, a suitable retirement system for its employees. Employees of the Commission shall be eligible for social security coverage in respect of old age and survivor's insurance provided that the Commission takes such steps as may be necessary pursuant to the laws of the United States, to participate in such program of insurance as a governmental agency or unit. The Commission may establish and maintain or participate in such additional programs of employee benefits as it may deem appropriate.

(g) The Commission may borrow, accept or contract for the services of personnel from any state, the United States, or any other governmental agency, or from any person, firm, association or corporation.

(h) The Commission may accept for any of its purposes and functions under this Compact any and all donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association or corporation, and may receive, utilize and dispose of the same. Any donation or grant accepted by the Commission pursuant to this paragraph or services borrowed pursuant to paragraph (g) of this Article shall be reported in the annual report of the Commission. Such report shall include the nature, amount and conditions, if any, of the donation, grant or services borrowed and the identity of the donor or lender.

(i) The Commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The Commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

(j) The Commission annually shall make to the Governor, legislature and advisory body required by Article V (a) of each party state a report covering the activities of the Commission for the preceding year, and embodying such recommendations as may have been made by the Commission. The Commission may make such additional reports as it may deem desirable.

...."

PART II. RECYCLED AND RECOVERED MATERIALS

SECTION 2.(a) G.S. 130A-290(a) reads as rewritten:

"**§ 130A-290. Definitions.**

(a) Unless a different meaning is required by the context, the following definitions shall apply throughout this Article:

...

(35) "Solid waste" means any hazardous or nonhazardous garbage, refuse or sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, domestic sewage and sludges generated by the

treatment thereof in sanitary sewage collection, treatment and disposal systems, and other material that is either discarded or is being accumulated, stored or treated prior to being discarded, or has served its original intended use and is generally discarded, including solid, liquid, semisolid or contained gaseous material resulting from industrial, institutional, commercial and agricultural operations, and from community activities. Notwithstanding sub-sub-subdivision b.3. of this subdivision, the term includes coal combustion residuals. The term does not include:

a. Fecal waste from fowls and animals other than humans.

b. Solid or dissolved material in:

1. Domestic sewage and sludges generated by treatment thereof in sanitary sewage collection, treatment and disposal systems which are designed to discharge effluents to the surface waters.

2. Irrigation return flows.

3. Wastewater discharges and the sludges incidental to and generated by treatment which are point sources subject to permits granted under Section 402 of the Water Pollution Control Act, as amended (P.L. 92-500), and permits granted under G.S. 143-215.1 by the Commission, including coal combustion products. However, any sludges that meet the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this Article.

c. Oils and other liquid hydrocarbons controlled under Article 21A of Chapter 143 of the General Statutes. However, any oils or other liquid hydrocarbons that meet the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this Article.

d. Any source, special nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. § 2011).

e. **(Effective until August 1, 2015)** Mining refuse covered by the North Carolina Mining Act, G.S. 74-46 through 74-68 and regulated by the North Carolina Mining and Energy Commission (as defined under G.S. 143B-293.1). However, any specific mining waste that meets the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this Article.

e. **(Effective August 1, 2015)** Mining refuse covered by the North Carolina Mining Act, G.S. 74-46 through 74-68 and regulated by the North Carolina Mining Commission (as defined under G.S. 143B-293.1). However, any specific mining waste that meets the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this Article.

f. Recovered material.

g. Steel slag that is a product of the electric arc furnace steelmaking process; provided, that such steel slag is sold and distributed in the stream of commerce for consumption, use, or further processing into another desired commodity and is managed as an item of commercial value in a controlled manner and not as a discarded material or in a manner constituting disposal.

...."

SECTION 2.(b) G.S. 130A-309.05 reads as rewritten:

"**§ 130A-309.05. Regulated wastes; certain exclusions.**

(a) Notwithstanding other provisions of this Article, the following waste shall be regulated pursuant to this Part:

(1) Medical waste; and

(2) Ash generated by a solid waste management facility from the burning of solid waste.

(b) Ash generated by a solid waste management facility from the burning of solid waste shall be disposed of in a properly designed solid waste disposal area that complies with standards developed by the Department for the disposal of the ash. The Department shall work with solid waste management facilities that burn solid waste to identify and develop methods for recycling and reusing incinerator ash or treated ash.

(c) Recovered material is not subject to regulation as solid waste under this Article. In order for a material that would otherwise be regulated as solid waste to qualify as a recovered material, the Department may require any person who owns or has control over the material to demonstrate that the material meets the requirements of this subsection. In order to protect public health and the environment, the Commission may adopt rules to implement this subsection. Materials that are accumulated speculatively, as that term is defined under 40 Code of Federal Regulations § 261 (July 1, 2014 Edition), shall not qualify as a recovered material, and shall be subject to regulation as solid waste. In order to qualify as a recovered ~~material:~~material, the material shall be managed as a valuable commodity in a manner consistent with the desired use or end use, and all of the following conditions shall be met:

(1) ~~A majority~~ Seventy-five percent (75%), by weight or volume, of the recovered material stored at a facility at the beginning of a calendar year commencing January 1, shall be ~~sold, used, or reused within one year;~~removed from the facility through sale, use, or reuse by December 31 of the same year.

(2) The recovered material or the products or by-products of operations that process recovered material shall not be discharged, deposited, injected, dumped, spilled, leaked, or placed into or upon any land or water so that the products or by-products or any constituent thereof may enter other lands or be emitted into the air or discharged into any waters including groundwaters, or otherwise enter the environment or pose a threat to public health and ~~safety; and~~safety. Facilities that process recovered material shall be operated in a manner to ensure compliance with this subdivision.

(3) The recovered material shall not be a hazardous waste or have been recovered from a hazardous waste.

(4) The recovered material shall not contain significant concentrations of foreign constituents that render it unserviceable or inadequate for sale, or its intended use or reuse."

SECTION 2.(c) G.S. 130A-294 is amended by adding two new subsections to read:

"**§ 130A-294. Solid waste management program.**

...

(t) Construction and demolition debris diverted from the waste stream or collected as source separated material is subject to a solid waste permit for transfer, treatment, and processing in a permitted solid waste management facility. The Department may adopt rules to implement this subsection.

(u) Garbage diverted from the waste stream or collected as source separated material is subject to a solid waste permit for transfer, treatment, and processing in a permitted solid waste management facility. The Department may adopt rules to implement this subsection."

SECTION 2.(d) G.S. 130A-309.131 reads as rewritten:

"**§ 130A-309.131. Definitions.**

As used in this Part, the following definitions apply:

(1) Business entity. – Defined in G.S. 55-1-40(2a).

(2) Computer equipment. – Any ~~desktop~~ computer, ~~notebook computer,~~ monitor or video display unit for a computer system, and the ~~keyboard, mice, other~~ peripheral ~~equipment.~~ equipment except keyboards and mice. and a printing device such as a printer, a scanner, a combination print-scanner-fax machine, or other device designed to produce hard paper copies from a computer. Computer equipment does not include an automated typewriter, professional workstation, server, ICI device, ICI system, mobile telephone, portable handheld calculator, portable digital assistant (PDA), MP3 player, or other similar device; an automobile; a television; a household appliance; a large piece of commercial or industrial equipment, such as commercial medical equipment, that contains a cathode ray tube, a cathode ray tube device, a flat panel display, or similar video display device that is contained within, and is not separate from, the larger piece of equipment, or other medical devices as that term is defined under the federal Food, Drug, and Cosmetic Act.

...

(6) ~~Desktop computer.~~ Computer. – An electronic, magnetic, optical, electrochemical, or other high-speed data processing device that has all of the following features:

a. Performs logical, arithmetic, and storage functions for general purpose needs that are met through interaction with a number of software programs contained in the computer.

b. Is not designed to exclusively perform a specific type of limited or specialized application.

c. Achieves human interface through a ~~stand-alone~~ keyboard, ~~stand-alone monitor or other~~ display unit, and ~~a stand-alone~~ mouse or other pointing device.

d. Is designed for a single user.

~~e. Has a main unit that is intended to be persistently located in a single location, often on a desk or on the floor.~~

...

(9a) Electronic device. – Machinery that is powered by a battery or an electrical cord.

...

~~(11) Notebook computer. An electronic, magnetic, optical, electrochemical, or other high-speed data processing device that has all of the following features:~~

~~a. Performs logical, arithmetic, or storage functions for general purpose needs that are met through interaction with a number of software programs contained in the computer.~~

~~b. Is not designed to exclusively perform a specific type of limited or specialized application.~~

~~c. Achieves human interface through a keyboard, video display greater than four inches in size, and mouse or other pointing device, all of which are contained within the construction of the unit that comprises the computer.~~

~~d. Is able to be carried as one unit by an individual.~~

~~e. Is able to use external power, internal power, or batteries for a power source.~~

~~Notebook computer includes those that have a supplemental stand-alone interface device attached to the notebook computer. Notebook computer does not include a portable handheld calculator, a PDA, or similar specialized device. A notebook computer may also be referred to as a laptop computer.~~

...."

SECTION 2.(e) Part 2H of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-309.142. Registration of facilities recovering or recycling electronics required.**

Facilities that recover or recycle covered devices or other electronic devices diverted from the waste stream for transfer, treatment, or processing shall register annually with the Department on or before August 1 of each year upon such form as the Department may prescribe."

SECTION 2.(f) G.S. 130A-309.82 reads as rewritten:

"**§ 130A-309.82. Use of disposal tax proceeds by counties.**

Article 5C of Chapter 105 of the General Statutes imposes a tax on new white goods to provide funds for the management of discarded white goods. A county must use the proceeds of the tax distributed to it under that Article for the management of discarded white ~~goods.~~ goods and electronic devices, as that term is defined in G.S. 130A-309.131. The purposes for which a county may use the tax proceeds include, but are not limited to, the following:

(1) Capital improvements for infrastructure to manage discarded white ~~goods,~~ goods and electronic devices, such as concrete pads for loading, equipment essential for moving white ~~goods,~~ goods and electronic devices, storage sheds for equipment essential to white ~~goods~~ goods and electronic devices disposal management, and freon extraction equipment.

(2) Operating costs associated with managing discarded white ~~goods,~~ goods and electronic devices, such as labor, transportation, and freon extraction.

(3) The cleanup of illegal white ~~goods~~ goods and electronic devices disposal ~~sites, the cleanup of illegal disposal sites consisting of more than fifty percent (50%) discarded white goods, and, as to those illegal disposal sites consisting of fifty percent (50%) or less discarded white goods, the cleanup of the discarded white goods portion of the illegal disposal sites.~~sites.

Except as provided in subdivision (3) of this section, a county may not use the tax proceeds for a capital improvement or operating expense that does not directly relate to the management of discarded white ~~goods.~~ goods or electronic devices. Except as provided in subdivision (3) of this section, if a capital improvement or operating expense is partially related to the management of discarded white ~~goods,~~ goods and electronic devices, a county may use the tax proceeds to finance a percentage of the costs equal to the percentage of the use of the improvement or expense directly related to the management of discarded white ~~goods.~~goods or electronic devices."

SECTION 2.(g) Section 2(f) becomes effective July 1, 2015.

PART III. COAL ASH MANAGEMENT TECHNICAL CORRECTIONS AND AMENDMENTS

SECTION 3.1.(a) G.S. 130A-309.201 reads as rewritten:

"**§ 130A-309.201. Definitions.**

Unless a different meaning is required by the context, the definitions of G.S. 130A-290 and the following definitions apply throughout this Part:

...

(7) "Commission" means the ~~Environmental~~ Coal Ash Management Commission.

...."

SECTION 3.1.(b) G.S. 130A-309.205 is amended by adding a new subsection to read:

"**§ 130A-309.205. Local ordinances regulating management of coal combustion residuals and coal combustion products invalid; petition to preempt local ordinance.**

...

(a1) As used in this section, "Commission" means the Environmental Management Commission.

...."

SECTION 3.1.(c) G.S. 130A-309.220 reads as rewritten:

"**§ 130A-309.220. Design, construction, and siting requirements for projects using coal combustion products for structural fill.**

(a) Design, Construction, and Operation of Structural Fill Sites. –

...

(6) The coal combustion product structural fill project shall be effectively maintained and operated to ensure no violations of groundwater standards adopted by the Environmental Management Commission pursuant to Article 21 of Chapter 143 of the General Statutes due to the project.

...."

SECTION 3.2. Section 3(c) of S.L. 2014-122 reads as rewritten:

"**SECTION 3.(c)** The impoundments identified in subsection (b) of this section shall be closed as follows:

...

(3) If restoration of groundwater quality is degraded as a result of the impoundment, corrective action to restore groundwater quality shall be implemented by the owner or operator as provided in ~~G.S. 130A-309.204.~~ G.S. 130A-309.211."

SECTION 3.3. Section 3(f) of S.L. 2014-122 reads as rewritten:

"**SECTION 3.(f)** This section is effective when it becomes law. G.S. 130A-309.202, as enacted by Section 3(a) of this act, is repealed June 30, 2030. Subpart 3 of Part 2I of Article 9 of the General Statutes, as enacted by Section 3(a) of this act, applies to the use of coal combustion products as structural fill contracted for on or after that date. ~~The first report due under G.S. 130A-309.210, as enacted by Section 3(a) of this act, is due November 1, 2014.~~ Members to be appointed pursuant to G.S. 130A-309.202(b), as enacted by Section 3(a) of this act, shall be appointed no later than October 1, 2014."

SECTION 3.4.(a) Section 4(b) of S.L. 2014-122 reads as rewritten:

"**SECTION 4.(b)** Coal combustion products may be used as structural fill for any of the following types of projects:

(1) A project where the structural fill is used with a base liner, leachate collection system, cap liner, ~~or~~ groundwater monitoring ~~system~~ system, and where the constructor or operator establishes financial assurance, as required by G.S. 130A–309.217.

(2) As the base or sub-base of a concrete or asphalt paved road constructed under the authority of a public entity."

SECTION 3.4.(b) Section 4(f) of S.L. 2014-122 reads as rewritten:

"**SECTION 4.(f)** This section is effective when it becomes law and applies to the use of coal combustion ~~residuals~~ products as structural fill contracted for on or after that date."

SECTION 3.4.(c) This section is effective retroactively to September 20, 2014, and applies to the use of coal combustion products as structural fill contracted for on or after that date.

SECTION 3.5. G.S. 143-215.1(k) reads as rewritten:

"(k) Where operation of a disposal system permitted under this section results in exceedances of the groundwater quality standards at or beyond the compliance boundary, the Commission shall require the permittee to undertake corrective action, without regard to the date that the system was first permitted, to restore the groundwater quality by assessing the cause, significance, and extent of the violation of standards and submit the results of the investigation and a plan and proposed schedule for corrective action to the ~~Director or the Director's designee.~~Secretary. The permittee shall implement the plan as approved by, and in accordance with, a schedule established by the ~~Director or the Director's designee.~~Secretary. In establishing a schedule the ~~Director or the Director's designee~~Secretary shall consider any reasonable schedule proposed by the permittee."

SECTION 3.6. G.S. 62-302.1 reads as rewritten:

"**§ 62-302.1. Regulatory fee for combustion residuals surface impoundments.**

...

(c) When Due. – The fee shall be paid in quarterly installments. The fee is payable to the Coal Ash Management Commission on or before the 15th of the second month following the end of each quarter. Each public utility subject to this fee shall, on or before the date the fee is due for each quarter, prepare and render a report on a form prescribed by the Coal Ash Management Commission. The report shall state the public utility's total North Carolina jurisdictional revenues for the preceding quarter and shall be accompanied by any supporting documentation that the Coal Ash Management Commission may by rule require. Receipts shall be reported on an accrual basis.

(d) Use of Proceeds. – A special fund in the Office of State Treasurer and the Coal Ash Management Commission is created. The fees collected pursuant to this section and all other funds received by the Coal Ash Management Commission shall be deposited in the Coal Combustion Residuals Management Fund. The Fund shall be placed in an interest-bearing account, and any interest or other income derived from the Fund shall be credited to the Fund. Moneys in the Fund shall only be spent pursuant to appropriation by the General Assembly. The Coal Ash Management Commission shall be subject to the provisions of the State Budget Act, except that no unexpended surplus of the Coal Combustion Residuals Management Fund shall revert to the General Fund. All funds credited to the Fund shall be used only to pay the expenses of the Coal Ash Management Commission and the Department of Environment and Natural Resources in providing oversight of coal combustion residuals.

(e) Recovery of Fee. – The North Carolina Utilities Commission shall not allow an electric public utility to recover this fee from the retail electric customers of the State."

SECTION 3.7. G.S. 113-415 reads as rewritten:

"**§ 113-415. Conflicting laws.**

No provision of this Article shall be construed to repeal, amend, abridge or otherwise affect the authority and responsibility (i) vested in the Environmental Management Commission by Article 7 of Chapter 87 of the General Statutes, pertaining to the location, construction, repair, operation and abandonment of wells; (ii) vested in the Environmental Management Commission related to the control of water and air pollution as provided in Articles 21 and 21A of Chapter 143 of the General Statutes; (iii) vested in the Department and the ~~Environmental Management~~ Commission for Public Health by Article 10 of Chapter 130A of the General Statutes pertaining to public water-supply requirements; or (iv) vested in the Environmental Management Commission related to the management of solid and hazardous waste as provided in Article 9 of Chapter 130A of the General Statutes."

PART IV. CHANGE NAME OF ECOSYSTEM ENHANCEMENT PROGRAM TO DIVISION OF MITIGATION SERVICES

SECTION 4.1. G.S. 143-214.8 reads as rewritten:

"§ 143-214.8. ~~Ecosystem Enhancement Program:~~Division of Mitigation Services: established.

The ~~Ecosystem Enhancement Program~~Division of Mitigation Services is established within the Department of Environment and Natural Resources. The ~~Ecosystem Enhancement Program~~Division of Mitigation Services shall be developed by the Department as a nonregulatory statewide ~~ecosystem enhancement~~mitigation services program for the acquisition, maintenance, restoration, enhancement, and creation of wetland and riparian resources that contribute to the protection and improvement of water quality, flood prevention, fisheries, wildlife habitat, and recreational opportunities. The ~~Ecosystem Enhancement Program~~Division of Mitigation Services shall consist of the following components:

(1) Restoration and perpetual maintenance of wetlands.
(2) Development of restoration plans.
(3) Landowner contact and land acquisition.
(4) Evaluation of site plans and engineering studies.
(5) Oversight of construction and monitoring of restoration sites.
(6) Land ownership and management.
(7) Mapping, site identification, and assessment of wetlands functions.
(8) Oversight of private wetland mitigation banks to facilitate the components of the ~~Ecosystem Enhancement Program.~~Division of Mitigation Services."

SECTION 4.2. G.S. 143-214.9 reads as rewritten:

"§ 143-214.9. ~~Ecosystem Enhancement Program:~~Division of Mitigation Services: purposes.

The purposes of the ~~program~~ *Division of Mitigation Services* are as follows:

(1) To restore wetlands functions and values across the State to replace critical functions lost through historic wetlands conversion and through current and future permitted impacts. It is not the policy of the State to destroy upland habitats unless it would further the purposes of the ~~Wetlands Restoration Program.~~Division of Mitigation Services.
(2) To provide a consistent and simplified approach to address mitigation requirements associated with permits or authorizations issued by the United States Army Corps of Engineers under 33 U.S.C. § 1344.
(3) To streamline the wetlands permitting process, minimize delays in permit decisions, and decrease the burden of permit applicants of planning and performing compensatory mitigation for wetlands losses.
(4) To increase the ecological effectiveness of compensatory mitigation.
(5) To achieve a net increase in wetland acres, functions, and values in each major river basin.
(6) To foster a comprehensive approach to environmental protection."

SECTION 4.3. G.S. 143-214.10 reads as rewritten:

"§ 143-214.10. ~~Ecosystem Enhancement Program:~~Division of Mitigation Services: development and implementation of basinwide restoration plans.

Develop Basinwide Restoration Plans. – The Department shall develop basinwide plans for wetlands and riparian area restoration with the goal of protecting and enhancing water quality, flood prevention, fisheries, wildlife habitat, and recreational opportunities within each of the 17 major river basins in the State. The Department shall develop and implement a basinwide restoration plan for each of the 17 river basins in the State in accordance with the basinwide schedule currently established by the Division of Water Resources."

SECTION 4.4. G.S. 143-214.11 reads as rewritten:

"§ 143-214.11. ~~Ecosystem Enhancement Program:~~Division of Mitigation Services: compensatory mitigation.

(a) Definitions. – The following definitions apply to this section:

(1) Compensatory mitigation. – The restoration, creation, enhancement, or preservation of jurisdictional waters required as a condition of a permit issued by the Department or by the United States Army Corps of Engineers.

(1a) Compensatory mitigation bank. – A private compensatory mitigation bank or an existing local compensatory mitigation bank.

(1b) Existing local compensatory mitigation bank. – A mitigation bank operated by a unit of local government that is a party to a mitigation banking instrument executed on or before July 1, 2011, notwithstanding subsequent amendments to such instrument executed after July 1, 2011.

(2) Government entity. – The State and its agencies and subdivisions, or the federal government. "Government entity" does not include a unit of local government unless the unit of local government was a party to a mitigation banking instrument executed on or before July 1, 2011, notwithstanding subsequent amendments to such instrument executed after July 1, 2011.

(3) Hydrologic area. – An eight-digit Cataloging Unit designated by the United States Geological Survey.

(4) Jurisdictional waters. – Wetlands, streams, or other waters of the State or of the United States.

(4a) Mitigation banking instrument. – The legal document for the establishment, operation, and use of a mitigation bank.

(4b) Private compensatory mitigation bank. – A site created by a private compensatory mitigation provider and approved for mitigation credit by State and federal regulatory authorities through execution of a mitigation banking instrument. No site owned by a government entity or unit of local government shall be considered a "private compensatory mitigation bank."

(5) Unit of local government. – A "local government," "public authority," or "special district" as defined in G.S. 159-7.

(b) Department to Coordinate Compensatory Mitigation. – All compensatory mitigation required by permits or authorizations issued by the Department or by the United States Army Corps of Engineers shall be coordinated by the Department consistent with the basinwide restoration plans and rules developed by the Environmental Management Commission. All compensatory mitigation, whether performed by the Department or by permit applicants, shall be consistent with the basinwide restoration plans. All compensatory mitigation shall be consistent with rules adopted by the Commission for wetland and stream mitigation and for protection and maintenance of riparian buffers.

(c) Compensatory Mitigation Emphasis on Replacing Ecological Function Within Same River Basin. – The emphasis of compensatory mitigation is on replacing functions within the same river basin unless it is demonstrated that restoration of other areas would be more beneficial to the overall purposes of the ~~Ecosystem Enhancement Program.~~Division of Mitigation Services.

(d) Compensatory Mitigation Options Available to Government Entities. – A government entity may satisfy compensatory mitigation requirements by the following actions, if those actions are consistent with the basinwide restoration plans and also meet or exceed the requirements of the Department or of the United States Army Corps of Engineers, as applicable:

(1) Payment of a fee established by the Commission into the Ecosystem Restoration Fund established in G.S. 143-214.12.

(2) Donation of land to the ~~Ecosystem Enhancement Program~~Division of Mitigation Services or to other public or private nonprofit conservation organizations as approved by the Department.

(3) Participation in a compensatory mitigation bank that has been approved by the United States Army Corps of Engineers, provided that the Department or the United States Army Corps of Engineers, as applicable, approves the use of such bank for the required compensatory mitigation.

(4) Preparing and implementing a compensatory mitigation plan.

(d1) Compensatory Mitigation Options Available to Applicants Other than Government Entities. – An applicant other than a government entity may satisfy compensatory mitigation requirements by the following actions, if those actions meet or exceed the requirements of the United States Army Corps of Engineers:

(1) Participation in a compensatory mitigation bank that has been approved by the United States Army Corps of Engineers, provided that the Department or the United States Army Corps of Engineers, as applicable, approves the use of such bank for the required compensatory mitigation. This option is only available in a hydrologic area where there is at least one compensatory mitigation bank that has been approved by the United States Army Corps of Engineers.

(2) Payment of a fee established by the Commission into the Ecosystem Restoration Fund established in G.S. 143-214.12. – This option is only available to an applicant who demonstrates that the option under subdivision (1) of this subsection is not available.

(3) Donation of land to the ~~Ecosystem Enhancement Program~~Division of Mitigation Services or to other public or private nonprofit conservation organizations as approved by the Department.

(4) Preparing and implementing a compensatory mitigation plan.

(e) Payment Schedule. – A standardized schedule of compensatory mitigation payment amounts shall be established by the Commission. Compensatory mitigation payments shall be made by applicants to the Ecosystem Restoration Fund established in G.S. 143-214.12. The monetary payment shall be based on the ecological functions and values of wetlands and streams permitted to be lost and on the cost of restoring or creating wetlands and streams capable of performing the same or similar functions, including directly related costs of wetland and stream restoration planning, long-term monitoring, and maintenance of restored areas. Compensatory mitigation payments for wetlands shall be calculated on a per acre basis. Compensatory mitigation payments for streams shall be calculated on a per linear foot basis.

(f) Mitigation Banks. – State agencies and mitigation banks shall demonstrate that adequate, dedicated financial surety exists to provide for the perpetual land management and hydrological maintenance of lands acquired by the State as mitigation banks, or proposed to the State as privately operated and permitted mitigation banks.

(g) Payment for Taxes. – A State agency acquiring land to restore, enhance, preserve, or create wetlands must also pay a sum in lieu of ad valorem taxes lost by the county in accordance with G.S. 146-22.3.

(h) Sale of Mitigation Credits by Existing Local Compensatory Mitigation Bank. – An existing local compensatory mitigation bank shall comply with the requirements of Article 12 of Chapter 160A of the General Statutes applicable to the disposal of property whenever it transfers any mitigation credits to another person.

(i) The ~~Ecosystem Enhancement Program~~Division of Mitigation Services shall exercise its authority to provide for compensatory mitigation under the authority granted by this section to use mitigation procurement programs in the following order of preference:

(1) Full delivery/bank credit purchase program. – The ~~Ecosystem Enhancement Program~~Division of Mitigation Services shall first seek to meet compensatory mitigation procurement requirements through the ~~Program's~~

Division's full delivery program or by the purchase of credits from a private compensatory mitigation bank.

(2) Existing local compensatory mitigation bank credit purchase program. – Any compensatory mitigation procurement requirements that are not fulfillable under subdivision (1) of this subsection shall be procured from an existing local compensatory mitigation bank, provided that the credit purchase is made to mitigate the impacts of a project located within the mitigation bank service area and hydrologic area of the existing local compensatory mitigation bank.

(3) Design/build program. – Any compensatory mitigation procurement requirements that are not fulfillable under subdivision (1) or (2) of this subsection shall be procured under a program in which ~~Ecosystem Enhancement Program~~the Division of Mitigation Services contracts with one private entity to lead or implement the design, construction, and postconstruction monitoring of compensatory mitigation at sites obtained by the ~~Ecosystem Enhancement Program.~~Division of Mitigation Services. Such a program shall be considered the procurement of compensatory mitigation credits.

(4) Design-bid-build program. – Any compensatory mitigation procurement requirements that are not fulfillable under either subdivision (1) or (2) of this subsection may be procured under the ~~Ecosystem Enhancement Program's~~Division of Mitigation Services' design-bid-build program. The ~~Ecosystem Enhancement Program~~Division of Mitigation Services may utilize this program only when procurement under subdivision (1) or (2) of this subsection is not feasible. Any mitigation site design work currently being performed through contracts awarded under the design-bid-build program shall be allowed to continue as scheduled. Contracts for construction of projects with a design already approved by the ~~Ecosystem Enhancement Program~~Division of Mitigation Services shall be awarded by the ~~Ecosystem Enhancement Program~~Division of Mitigation Services by issuing a Request for Proposal (RFP). Only contractors who have prequalified under procedures established by the ~~Ecosystem Enhancement Program~~Division of Mitigation Services shall be eligible to bid on ~~Ecosystem Enhancement Program~~Division of Mitigation Services construction projects. Construction contracts issued under this subdivision shall be exempt from the requirements of Article 8B of Chapter 143 of the General Statutes.

(j) The regulatory requirements for the establishment, operation, and monitoring of a compensatory mitigation bank or full delivery project shall vest at the time of the execution of the mitigation banking instrument or the award of a full delivery contract."

SECTION 4.5. G.S. 143-214.12 reads as rewritten:

"**§ 143-214.12. ~~Ecosystem Enhancement Program:~~Division of Mitigation Services: Ecosystem Restoration Fund.**

(a) Ecosystem Restoration Fund. – The Ecosystem Restoration Fund is established as a nonreverting fund within the Department. The Fund shall be treated as a special trust fund and shall be credited with interest by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-69.3. The Ecosystem Restoration Fund shall provide a repository for monetary contributions and donations or dedications of interests in real property to promote projects for the restoration, enhancement, preservation, or creation of wetlands and riparian areas and for payments made in lieu of compensatory mitigation as described in subsection (b) of this section. No funds shall be expended from this Fund for any purpose other than those directly

contributing to the acquisition, perpetual maintenance, enhancement, restoration, or creation of wetlands and riparian areas in accordance with the basinwide plan as described in G.S. 143-214.10. The cost of acquisition includes a payment in lieu of ad valorem taxes required under G.S. 146-22.3 when the Department is the State agency making the acquisition.

(a1) The Department may distribute funds from the Ecosystem Restoration Fund directly to a federal or State agency, a local government, or a private, nonprofit conservation organization to acquire, manage, and maintain real property or an interest in real property for the purposes set out in subsection (a) of this section. A recipient of funds under this subsection shall grant a conservation easement in the real property or interest in real property acquired with the funds to the Department in a form that is acceptable to the Department. The Department may convey real property or an interest in real property that has been acquired under the ~~Ecosystem Enhancement Program~~ Division of Mitigation Services to a federal or State agency, a local government, or a private, nonprofit conservation organization to acquire, manage, and maintain real property or an interest in real property for the purposes set out in subsection (a) of this section. A grantee of real property or an interest in real property under this subsection shall grant a conservation easement in the real property or interest in real property to the Department in a form that is acceptable to the Department.

(b) Authorized Methods of Payment. – A person subject to a permit or authorization issued by the United States Army Corps of Engineers under 33 U.S.C. § 1344 may contribute to the ~~Ecosystem Enhancement Program~~Division of Mitigation Services in order to comply with conditions to, or terms of, the permit or authorization if participation in the ~~Ecosystem Enhancement Program~~Division of Mitigation Services will meet the mitigation requirements of the United States Army Corps of Engineers. The Department shall, at the discretion of the applicant, accept payment into the Ecosystem Restoration Fund in lieu of other compensatory mitigation requirements of any authorizations issued by the United States Army Corps of Engineers under 33 U.S.C. § 1344 if the contributions will meet the mitigation requirements of the United States Army Corps of Engineers. Payment may be made in the form of monetary contributions according to a fee schedule established by the Environmental Management Commission or in the form of donations of real property provided that the property is approved by the Department as a suitable site consistent with the basinwide wetlands restoration plan.

(c) Accounting of Payments. – The Department shall provide an itemized statement that accounts for each payment into the Fund. The statement shall include the expenses and activities financed by the payment."

SECTION 4.6. G.S. 143-214.13 reads as rewritten:

"**§ 143-214.13. ~~Ecosystem Enhancement Program:~~Division of Mitigation Services: reporting requirement.**

(a) The Department of Environment and Natural Resources shall report each year by November 1 to the Environmental Review Commission and to the Joint Legislative Commission on Governmental Operations regarding its progress in implementing the ~~Ecosystem Enhancement Program~~Division of Mitigation Services and its use of the funds in the Ecosystem Restoration Fund. The report shall document statewide wetlands losses and gains and compensatory mitigation performed under G.S. 143-214.8 through G.S. 143-214.12. The report shall also provide an accounting of receipts and disbursements of the Ecosystem Restoration Fund, an analysis of the per-acre cost of wetlands restoration, and a cost comparison on a per-acre basis between the State's ~~Ecosystem Enhancement Program~~Division of Mitigation Services and private mitigation banks. The Department shall also send a copy of its report to the Fiscal Research Division of the General Assembly.

(b) The Department shall maintain an inventory of all property that is held, managed, maintained, enhanced, restored, or used to create wetlands under the ~~Ecosystem Enhancement Program.~~Division of Mitigation Services. The inventory shall also list all conservation

easements held by the Department. The inventory shall be included in the annual report required under subsection (a) of this section."

SECTION 4.7. G.S. 143-214.14 reads as rewritten:

"**§ 143-214.14. Cooperative State-local coalition water quality protection plans.**

(a) Definitions. – The following definitions apply in this section:

(1) "Basin" means a river basin as defined in G.S. 143-215.22G or any subbasin or segment thereof.

(2) "Coalition plan" means a water quality protection plan developed by a coalition of local governments for water quality protection of a basin.

(3) "Local government" means a city, county, special district, authority, or other political subdivision of the State.

(4) "Water quality protection" means management of water use, quantity, and quality.

(b) Legislative Findings. – This section establishes a framework to encourage State-local pollutant reduction strategies for basins under the supervision and coordination of the Commission. The General Assembly finds that:

(1) Water quality conditions and sources of water contamination may vary from one basin to another.

(2) Water quality conditions and sources of water contamination may vary within a basin.

(3) Some local governments have demonstrated greater capacity than others to protect and improve water quality conditions.

(4) In some areas of the State artificial alteration of watercourses by surface water impoundments or other means may have a significant effect on water quality.

(5) Imposition of standard basinwide water quality protection requirements and strategies may not equitably address the varying conditions and needs of all areas.

(6) There is a need to develop distinct approaches to address water quality protection in basins in the State, drawing upon the resources of local governments and the State, under the supervision and coordination of the Commission.

(c) Legislative Goals and Policies. – It is the goal of the General Assembly that, to the extent practicable, the State shall adopt water quality protection plans that are developed and implemented in cooperation and coordination with local governments and that the State shall adopt water quality protection requirements that are proportional to the relative contributions of pollution from all sources in terms of both the loading and proximity of those sources. Furthermore, it is the goal of the General Assembly to encourage and support State-local partnerships for improved water quality protection through the provision of technical and financial assistance available through the Clean Water Management Trust Fund, the ~~Ecosystem Enhancement Program,~~Division of Mitigation Services, the Ecosystem Restoration Fund, water quality planning and project grant programs, the State's revolving loan and grant programs for water and wastewater facilities, other funding sources, and future appropriations. The Commission shall implement these goals in accordance with the standards, procedures, and requirements set out in this section.

(d) The Commission may, as an alternative method of attaining water quality standards in a basin, approve a coalition plan proposed by a coalition of local governments whose territorial area collectively includes the affected basin in the manner provided by this section. The Commission may approve a coalition plan proposed by a coalition of local governments whose territorial area or water quality protection plan does not include all of an affected basin if the Commission determines that the omission will not adversely affect water quality.

(e) A coalition of local governments choosing to propose a coalition plan to the Commission shall do so through a nonprofit corporation the coalition of local governments incorporates with the Secretary of State.

(f) The Commission may approve a coalition plan only if the Commission first determines that:

(1) The basin under consideration is an appropriate unit for water quality planning.

(2) The coalition plan meets the requirements of subsection (g) of this section.

(3) The coalition of local governments has formed a nonprofit corporation pursuant to subsection (e) of this section.

(4) The coalition plan has been approved by the governing board of each local government that is a member of the coalition of local governments proposing the coalition plan.

(5) The coalition plan will provide a viable alternative method of attaining equivalent compliance with federal and State water quality standards, classifications, and management practices in the affected basin.

(g) A coalition plan shall include all of the following:

(1) An assessment of water quality and related water quantity management in the affected basin.

(2) A description of the goals and objectives for protection and improvement of water quality and related water quantity management in the affected basin.

(3) A workplan that describes proposed water quality protection strategies, including point and nonpoint source programs, for achieving the specified goals and objectives; an implementation strategy including specified tasks, timetables for action, implementation responsibilities of State and local agencies; and sources of funding, where applicable.

(4) A description of the performance indicators and benchmarks that will be used to measure progress in achieving the specified goals and objectives, and an associated monitoring framework.

(5) A timetable for reporting to the Commission on progress in implementing the coalition plan.

(h) A coalition plan shall cover a specified period. The coalition plan may provide for the phasing in of specific strategies, tasks, or mechanisms by specified dates within the period covered by the plan. The Commission may approve one or more successive coalition plan periods. The coalition plan may include strategies that vary among the subareas or jurisdictions of the geographic area covered by the coalition plan.

(i) If a local government chooses to withdraw from a coalition of local governments or fails to implement a coalition plan, the remaining members of a coalition of local governments may prepare and submit a revised coalition plan for approval by the Commission. If the Commission determines that an approved coalition plan no longer provides a viable alternative method of attaining equivalent compliance with federal and State water quality standards, classifications, and management practices, the Commission may suspend or revoke its approval of the coalition plan.

(j) The Commission may approve one or more amendments to a coalition plan proposed by a coalition of local governments through its nonprofit corporation with the approval of the governing board of each local government that is a member of the coalition of local governments that proposed the coalition plan.

(k) With the approval of the Commission, any coalition of local governments with an approved coalition plan may establish and implement a pollutant trading program for specific pollutants between and among point source dischargers and nonpoint pollution sources.

(l) The Commission shall submit an annual progress report on the implementation of this section to the Environmental Review Commission on or before 1 October of each year."

PART V. ENERGY POLICY COUNCIL AMENDMENTS

SECTION 5. G.S. 113B-3 reads as rewritten:

"**§ 113B-3. Composition of Council; appointments; terms of members; removal; qualifications.**

(a) The Energy Policy Council shall consist of 13 members to be appointed as follows:

(1), (2) Repealed by Session Laws 2013-365, s. 8(c), effective July 29, 2013.

(2a) The Secretary of Environment and Natural ~~Resources.~~Resources, or the Secretary's designee.

(2b) The Secretary of ~~Commerce.~~Commerce, or the Secretary's designee.

(2c) The Lieutenant ~~Governor.~~Governor, or the Lieutenant Governor's designee.

(3) Ten public members who are citizens of the State of North Carolina and who are appointed in accordance with subsection (c) of this section.

(4) Repealed by Session Laws 2009-446, s. 4, effective August 7, 2009.

...

(d) A Council member shall be automatically removed from the Council if he or she fails to attend three successive Council meetings without just cause as determined by the remainder of the Council.

(e) The Governor shall have the power to remove any member of the Council from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of G.S. 143B-13 of the Executive Organization Act of 1973."

PART VI. CLARIFY RULEMAKING DIRECTIVE

SECTION 6.(a) G.S. 113-391(a3) reads as rewritten:

"(a3) The Environmental Management Commission shall adopt rules, after consideration of recommendations from the Mining and Energy Commission, for all of the following purposes:

(1) Stormwater control for sites on which oil and gas exploration and development activities are conducted.

(2) Regulation of toxic air emissions from drilling ~~operations. operations~~, if it determines that the State's current air toxics program and any federal regulations governing toxic air emissions from drilling operations to be adopted by the State by reference are inadequate to protect public health, safety, welfare, and the environment. In formulating appropriate standards, the Department shall assess emissions from oil and gas exploration and development activities that use horizontal drilling and hydraulic fracturing technologies, including emissions from associated truck traffic, in order to (i) determine the adequacy of the State's current air toxics program to protect landowners who lease their property to drilling operations and (ii) determine the impact on ozone levels in the area in order to determine measures needed to maintain compliance with federal ozone standards."

SECTION 6.(b) This section is effective retroactively to July 2, 2012.

PART VII. SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 7.1. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

SECTION 7.2. Except as otherwise provided, this act is effective when it becomes law.

HOUSE BILL 157:
Amend Environmental Laws

2015-2016 General Assembly

Committee:	House Environment	**Date:**	March 10, 2015
Introduced by:	Reps. McElraft, Catlin	**Prepared by:**	Jeff Hudson and Jennifer McGinnis Committee Counsels
Analysis of:	PCS to First Edition H157-PCS10091-SB-1		

SUMMARY: ***The Proposed Committee Substitute for House Bill 157 would amend various environmental laws.***

BILL ANALYSIS:

Part I. Interstate Mining Compact Clarification

North Carolina, along with 21 other states, is a member of the Interstate Mining Compact Commission.

Section 1 would authorize the Governor to send an official from the Department of Environment and Natural Resources (DENR) to act on the Governor's behalf at meetings of the Commission.

Part I. Recycled and Recovered Materials

Section 2(a) would exclude steel slag that is a product of the electric arc furnace steelmaking process from the definition of solid waste, provided that the slag is sold and distributed in the stream of commerce for consumption, use, or further processing into another desired commodity and is managed as an item of commercial value in a controlled manner and not as a discarded material or in a manner constituting disposal.

Section 2(b) would clarify requirements for "recovered materials" under the statutes governing the management of solid waste. Under current law, if a material qualifies as "recovered material," it is not subject to regulation as solid waste. The PCS would amend the existing qualifications as follows:

- Provides that materials that are accumulated speculatively (as that term is defined under federal law) do not qualify as a recovered material, and are subject to regulation as solid waste.
- Requires that a recovered material must be managed as a valuable commodity in a manner consistent with the desired use or end use.
- Specifies that ***75%*** of the recovered material stored at a facility at the beginning of a calendar year must be removed from the facility through sale, use, or reuse by the end of the same year. Current law requires that a ***"majority"*** of the material be removed within the year period.
- Requires that operations that process recovered material be conducted in a manner to ensure that recovered material or by-products from processing of the material are not discharged, deposited, injected, dumped, spilled, leaked, or placed into or upon any land or water, emitted into the air, otherwise enter the environment, or pose a threat to public health and safety.
- Requires that the recovered material must not contain significant concentrations of foreign constituents that render it unserviceable or inadequate for sale, or its intended use or reuse.

Section 2(c) would add provisions specifying that construction and demolition debris and garbage diverted from the waste stream or collected as source separated material are subject to solid waste permits for transfer, treatment, and processing in a permitted solid waste management facility.

Section 2(d) would modernize definitions included in the statutes governing management of discarded computer equipment and televisions.

Section 2(e) would require facilities that recover or recycle discarded computer equipment, televisions, or other electronic devices to register annually with DENR.

Section 2(f) would allow moneys in the White Goods Management Account (consisting of revenues from a tax[1] imposed on new white goods[2]) to be used for the management of discarded electronic devices. Under current law, 72% of the net tax proceeds are distributed among the counties on a per capita basis, and counties are only permitted to use these funds to manage discarded white goods.

Part III. Coal Ash Management Technical Corrections and Amendments

Clarify Implementing Agencies

The Coal Ash Management Act of 2014 is implemented by several different State agencies, including the Coal Ash Management Commission, the Environmental Management Commission, and the Utilities Commission.

Sections 3.1(a), (b), and (c); 3.6; and 3.7 would amend several sections of the Coal Ash Management Act of 2014 to clarify which State agencies are responsible for implementing various provisions of the Act.

Technical Corrections

Section 3.2 would correct an incorrect statutory cross reference.

Section 3.3 would repeal an unnecessary reporting deadline.

Structural Fill Moratorium Clarifications

The Coal Ash Management Act of 2014 placed a moratorium on the use of coal combustion products as structural fill until August 1, 2015, in order to allow DENR, the Environmental Management Commission, and the General Assembly time to review and evaluate the use of coal combustion residuals as structural fill. The Act included two exceptions to the moratorium: structural fill projects that include many of the requirements for solid waste landfills and structural fill projects that are the base of a concrete or asphalt paved road.

Section 3.4(a) would make a correction to the exceptions to the structural fill moratorium to clarify that all of the listed requirements apply.

Section 3.4(b) would make a technical correction to the effective date of the moratorium on the use of coal combustion products as structural fill.

Sections 3.4(a) and (b) would be retroactively effective to September 20, 2014, and apply to the use of coal combustion products as structural fill contracted on or after that date.

Clarify Authority of Secretary of Environment and Natural Resources

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[1] The rate of the privilege tax and the excise tax is three dollars ($3.00) for each new white good sold.
[2] White goods include refrigerators, ranges, water heaters, freezers, unit air conditioners, washing machines, dishwashers, clothes dryers, and other similar domestic and commercial large appliances.

Section 3.5 would clarify that certain responsibilities related to corrective action are under the authority of the Secretary of Environment and Natural Resources.

Part IV. Change Name of Ecosystem Enhancement Program to Division of Mitigation Services

The Ecosystem Enhancement Program is a program within DENR that implements programs to protect and mitigate impacts to wetlands and streams.

Sections 4.1 through 4.7 would change the name of the Ecosystem Enhancement Program to the Division of Mitigation Services.

Part V. Energy Policy Council Amendments

The Energy Policy Council is a State agency located within DENR that was created to advise and make recommendations on increasing domestic energy exploration, development, and production within the State and region to promote economic growth and job creation to the Governor and the General Assembly.

Section 5 would provide that the Secretary of Environment and Natural Resources, the Secretary of Commerce, and the Lieutenant Governor may appoint designees to represent them on the Energy Policy Council. Section 5 would also provide that a member of the Energy Policy Council will be automatically removed if he or she fails to attend three successive meetings without just cause and would allow the Governor to remove any member of the Council for misfeasance, malfeasance, or nonfeasance.

EFFECTIVE DATE: Except as otherwise provided, this act would become effective when it becomes law.

ATTACHMENT #2

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 157

AMENDMENT NO. 1
(to be filled in by Principal Clerk)

H157-ARI-2 [v.2]

Comm. Sub. [YES]
Amends Title [NO]
H157-PCS10091-SB-1

Date _____,2015

Representative Hager

moves to amend the bill on page 16, lines 25 through 31, by rewriting those lines to read:

"PART VI. CLARIFY RULEMAKING DIRECTIVE

SECTION 6.(a) G.S. 113-391(a3) reads as rewritten:

"(a3) The Environmental Management Commission shall adopt rules, after consideration of recommendations from the Mining and Energy Commission, for all of the following purposes:

(1) Stormwater control for sites on which oil and gas exploration and development activities are conducted.

(2) Regulation of toxic air emissions from drilling ~~operations.~~operations, if it determines that the State's current air toxics program and any federal regulations governing toxic air emissions from drilling operations to be adopted by the State by reference are inadequate to protect public health, safety, welfare, and the environment. In formulating appropriate standards, the Department shall assess emissions from oil and gas exploration and development activities that use horizontal drilling and hydraulic fracturing technologies, including emissions from associated truck traffic, in order to (i) determine the adequacy of the State's current air toxics program to protect landowners who lease their property to drilling operations and (ii) determine the impact on ozone levels in the area in order to determine measures needed to maintain compliance with federal ozone standards."

SECTION 6.(b) This section is effective retroactively to July 2, 2012.

PART VII. SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 7.1. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

SECTION 7.2. Except as otherwise provided, this act is effective when it becomes law.".

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 157

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H157-ARI-2 [v.2]

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES

ENVIRONMENT COMMITTEE REPORT
Representative Rick Catlin, Co-Chair
Representative Pat McElraft, Co-Chair

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

HB **157** Amend Environmental Laws.

Draft Number:	H157-PCS40106-RI-1
Serial Referral:	None
Recommended Referral:	**FINANCE**
Long Title Amended:	No
Floor Manager:	McElraft

TOTAL REPORTED: 1

VISITOR REGISTRATION SHEET

Environment Rm. 423

(Committee Name)

1:30 pm

03/10/2015

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY
Ellen Lorscheider	NC DENR

VISITOR REGISTRATION SHEET

Environment Rm. 423

(Committee Name)

1:30 PM

03/10/2015

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY
Jake Cashion	NCCC
JGOODMAN	"
Patrick Bafflin	NC AEC
Will (u)preger	MVP
George Everett	Duke Energy
Hugh Johnson	NCACC
Rhian Merwald	Williams Mullen
Chris Agan	DOT
Carmen Hooks	MVA
David McGowan	NCPC
Lewis King	Stratton office
Mitch Gillespie	" "

09-22-2012

VISITOR REGISTRATION SHEET

ENVIRONMENT Rm. 423

(Committee Name)

03/10/2011 1:30pm

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY
Kara Weishaar	Smith Anderson
Sarah Collins	NCLM
Philip Barefoot	MWC
Tom Bean	NCSEA, EDF, NAWF
Mary Maclean Asbill	SELC
Cassie Hanni	Sierra Club
Molly Diggins	Sierra Club
Preston Howard	NCMA
J Thompson	CSS
Jay Stem	NCAA
Destri Chenault Bayard	Sierra Club.
Cindy Ohms	CUCA
Susan Tuck	Duke
Isabel Villa-Garcia	NCAR
Matthew Dockham	NC DENR
Mike Abraczinskas	NC DENR - DAQ
Linda Culpepper	NC DENR - DWR

09-22-2012

Cancelled Notice

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2015-2016 SESSION

You are hereby notified that the **House Committee on Environment** will **NOT** meet as follows:

DAY & DATE: Thursday, March 12, 2015
TIME: **10:00 AM**
LOCATION: **544 LOB**
COMMENTS: **Chair: Rep. Pat McElraft**
Topic: Introduction to DENR

Respectfully,

Representative Rick Catlin, Co-Chair
Representative Pat McElraft, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 11:53 AM on Wednesday, March 11, 2015.

___ Principal Clerk
___ Reading Clerk – House Chamber

Nancy Fox (Committee Assistant)

House Committee on Environment
Thursday, March 19, 2015, 10:00 AM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Presentations

Linda Culpepper, DENR Director of Waste Management Division
Jim Bateson, DENR Superfund Section Chief

Presenting Risk Based Remediation Report from SL 2014-120:

Other Business

Adjournment

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2015-2016 SESSION

You are hereby notified that the **House Committee on Environment** will meet as follows:

DAY & DATE: Thursday, March 19, 2015
TIME: **10:00 AM**
LOCATION: **544 LOB**
COMMENTS: **Rep. Rick Catlin, Presiding**
Topic: To Be Announced

Respectfully,

Representative Rick Catlin, Co-Chair
Representative Pat McElraft, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 10:21 AM on Thursday, March 12, 2015.

___ Principal Clerk
___ Reading Clerk – House Chamber

Nancy Fox (Committee Assistant)

House Committee on Environment
Thursday, March 19, 2015 at 10:00 AM
Room 544 of the Legislative Office Building

MINUTES

The House Committee on Environment met at 10:00 AM on March 19, 2015 in Room 544 of the Legislative Office Building. Representatives Adams, Bradford, Brockman, Carney, Catlin, Collins, Dixon, Hager, Harrison, Iler, Insko, G. Martin, McGrady, Millis, and Yarborough attended.

Representative Rick Catlin, Chair, presided.

Presentation:
Linda Culpepper, DENR Director of Waste Management Division
Risk Based Remediation Report- Use of Contaminated Property
See Attachment 1

Jim Bateson, DENR Superfund Section Chief

The meeting adjourned at 11:00.

Representative Rick Catlin, Chair
Presiding

Laura Holt-Kabel, Committee Clerk

ATTENDANCE

House Environment Committee

(Nancy Fox and Laura Holt-Kabel)

DATES	3/19														
Rep. Rick Catlin, Chair	✓														
Rep. Pat McElraft, Chair															
Rep. Jay Adams, Vice	✓														
Rep. Nathan Baskerville															
Rep. John Bradford	✓														
Rep. Bill Brawley															
Rep. William Brisson															
Rep. Cecil Brockman	✓														
Rep. Becky Carney	✓														
Rep. Jeff Collins	✓														
Rep. Jimmy Dixon	✓														
Rep. Mike Hager	✓														
Rep. Pricey Harrison, Vice	✓														
Rep. Frank Iler	✓														
Rep. Verla Insko	✓														
Rep. Paul Leubke															
Rep. Grier Martin	✓														
Rep. Chuck McGrady, Vice	✓														
Rep. Chris Millis	✓														
Rep. Rodney Moore															
Rep. Bob Steinburg															
Rep. Sarah Stevens															
Rep. Roger West															
Rep. Larry Yarborough	✓														

Use of Contaminated Property

Report to the House Environment Commission
March 5, 2015

Linda Culpepper, Director, Division of Waste Management

Rep. Harrison -
Rep. Adams - commercial real estate - wants to educate on "Ready to Re-use"
Rep. Bradford - real estate, prior PE - Exxon

SL 2014-120 Section 56(a) Regulatory Reform

Study ways to improve timeliness of actions to address contaminated properties:

- Expansion of risk-based remediation of groundwater to all remediation programs under DENR.
- Resources needed within DENR to oversee remediation, including the potential to expand privatization.
- Groundwater quality standards be no more stringent than the federal/state maximum contaminant levels for drinking water.
- Liability protection for innocent landowners of nonresidential property who take actions consistent with the federal CERCLA for due diligence and due care.
- Other matters the DENR deems appropriate to further the goals of this study.

NCDENR

Remediation Steps

1. Characterize the site
2. Eliminate current unacceptable risk (provide alternate water supply)
3. Evaluate remaining risks posed by current and anticipated uses
4. Design strategy to ensure exposures are controlled going forward
5. Public input
6. Implement strategy and monitor

NCDENR

Current Risk-based Remediation Programs

- Petroleum Underground Storage Tanks (UST)
  (20,392 closed ; 7905 remain)

- Dry-cleaning Solvent Cleanup Act (DSCA)
  (42 closed ; 304 remain)

- Pre-regulatory landfills
  (2 closed ; 675 remain)

NCDENR

Current Risk-based Remediation

- **Manufacturing and industrial sites in DENR with only onsite contamination**

	IHSB	RCRA
Eligibility	7	5
Remedial Action Approved	2	2
Meetings with others	7	3

IHSB – Superfund Inactive Sites Branch

RCRA – Hazardous Waste Section

NCDENR

Brownfields Redevelopment

Evaluate - Site-specific anticipated property use. Potential pathways for contact with contamination at the site.

Develop - Risk-management based remediation and/or combination of institutional controls to limit exposure

$9.8 billion private investment

6044 acres redeveloped in 318 Agreements

NCDENR

Stakeholder - Policy Options

Expand use of risk-based remedies in DENR to:

- non-industrial properties
- properties with offsite contamination
- properties with above ground petroleum releases
- Require demonstration that contamination will be stabilized.
- Allow all DENR cleanup programs to approve risk-based remedies

NCDENR

Stakeholder - Policy Options

Land Use Controls

- Grant authority to rely on existing state/local govt. laws on groundwater use in lieu of site-specific controls
- Use state/local govt. controls only where future drinking water supply needs protection
- Use of state/local govt. controls allowed for source properties.

NCDENR

Stakeholder - Policy Options
Permitted Facilities

- Should facilities with permitted units, require that new or on-going permitted activity is conducted so that unrestricted use standards are met at permit compliance boundaries.

- Should risk-based remediation be allowed to address releases from permitted units that have migrated beyond established compliance boundaries.

NCDENR

Stakeholder - Policy Options
Financial Assurance

- Eliminate financial assurance as a condition for risk-based remedies.

- Continue to allow DENR discretion to reduce financial assurance as a condition for implementing a risk-based remedy if these remedies are broadened to other DENR programs.

NCDENR

Stakeholder - Policy Options
Eligibility Cut Off Date

- Eliminate the March 1, 2011 cutoff date.
- Move the cutoff date to five years in the future, with review.
- Leave the cutoff date.

NCDENR

Resources – Policy Options

- Two-phased fee
  (eligibility and long- term monitoring)
- Adjust current $4,500/acre fee
- Allow privatized oversight
  Closure requirements certified
  Training/guidance/auditing
- Recognizing PE and PG certification; keeping certification process; or enhancing certification process

NCDENR

Groundwater Standards

Established by 15A NCAC 02L .0202 as the lowest of the following six criteria:

- A concentration protective of the non-cancer or systemic effects of a contaminant;
- A concentration which corresponds to an incremental lifetime cancer risk of one-in-a-million;
- The taste threshold limit value;
- The odor threshold limit value;
- The National Drinking Water Maximum Contaminant Level (MCL); or
- The National Secondary Drinking Water Standard (SDWS).

NCDENR

2L Groundwater Standards

15A NCAC 02L .0202 allows the EMC to set a standard less stringent than an MCL if risk assessment data is outdated.

When there is no standard, the default is the practical quantitation limit (PQL).

Where naturally occurring substances exceed the standard, the background is the standard (site specific).

NCDENR

Maximum Contaminant Level

Commission for Public Health

- adopts rules in 15A NCAC 18C which establishes MCLs for the quality of water provided by public water supply systems. (adopted by ref. from federal standards.)
- MCL = the maximum permissible level of a contaminant in water which is delivered to any user of a public water system. Represents value for which additional treatment costs do not outweigh public health benefits.

NCDENR

MCL vs. 2L

Groundwater Standards established for 147 parameters:

- 88 of these do not have MCLs
- 11 match 2° drinking water standards

Of the 59 with MCLs:

- 37 have a 2L that is more stringent
- 18 are the same
- 1 has a 2L less stringent

NCDENR

Policy for 2L Standard

Direct the EMC to adopt the MCL as the 2L standard for parameters where an MCL has been established.

Maintain the current framework for the groundwater standards.

NCDENR

Liability Protection for Innocent Landowners

Federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) gives protection to:

- Innocent landowners (CERCLA §101(35)(A));
- Contiguous property owners (CERCLA §107(q)); and
- Bona fide prospective purchasers (CERCLA §§101(40) and 107(r)).

Required to follow CERCAL requirements.

NCDENR

Policy Options – Liability Protection

- Add provisions to the Inactive Hazardous Sites Act that afford liability protection from enforcement by the State to innocent purchasers of nonresidential property who take actions consistent with the federal CERCLA for due diligence and due care regarding investigations and contaminants found at those properties.
- Make the above self-implementing
- Require the individual supervising or overseeing project meet federal "Environmental Professional" qualification.
- Require "Environmental Professional" to also be a Professional Geologist or Professional Engineer and licensed to practice in NC.
- Require "Environmental Professional" to be a Registered Environmental Consultant certified by DENR.

NCDENR

Contacts:

James Bateson– Superfund Section Chief
919.707.8329
james.bateson@ncdenr.gov

Linda Culpepper – DWM Director
919.707.8235
linda.culpepper@ncdenr.gov

Jay Zimmerman–DWR Director (Acting)
919.807.6351
jay.zimmerman@ncdenr.gov

Committee Sergeants at Arms

NAME OF COMMITTEE COMM ON ENVIRONMENT

DATE: 03-19-15 Room: 544

House Sgt-At Arms:

1. Name: REGGIE SILLS
2. Name: MARVIN LEE
3. Name: TERRY McCRAW
4. Name: CHRIS McCRACKEN
5. Name: _____

Senate Sgt-At Arms:

1. Name: _____
2. Name: _____
3. Name: _____
4. Name: _____
5. Name: _____

Thursday, March 19 ENVIRONMENT	Room 544	Time 10:00 am

Name	County	Sponsor
Bryson Hill	Brunswick	Frank Iler

VISITOR REGISTRATION SHEET

COMM. ON ENVIRONMENT — 03-19-15

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Matthew Dockham	NC DENR
Carr McLamb	Troutman Sander
Brad Kuett	NC Denr
Dick Gaither	Law Office of Richard Gaither PLLC
Will Morgan	TNC
Courtney McLaurin	NCCW
[signature]	MWC
Mary Maclean Asbill	SELC
Brooks Rainey Pearson	SELC
Rob Lamm	RLA
Chris Anderson	

VISITOR REGISTRATION SHEET

COMM. ON ENVIRONMENT — 03-19-15

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Whitney Christian	Ward & Smith
J Goodman	NC CHAMBER
Henry Jones	Jordan Price, Inc
Sarah Collins	NCLM
DAVID BARNES	Electricities
Kara Weishaar	SA
Paul Sherman	NCFB
Joe Starr	Solutions-IES / ACEC
Jim Smith	ACEC/NC
George Everett	Duke Energy
Isabel Villa Diaz	NCAR

VISITOR REGISTRATION SHEET

COMM. ON ENVIRONMENT — 03-19-15

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jenny Gahill	NCFB
Bo Hankins	McGuireWoods
Mark Hawes	Shurtape
Preston Howard	NCMA
Susan Kelly	Duke Energy

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2015-2016 SESSION

You are hereby notified that the **House Committee on Environment** will meet as follows:

DAY & DATE: Thursday, March 26, 2015
TIME: **10:00 AM**
LOCATION: **544 LOB**
COMMENTS: **Rep. Pat McElraft, Presiding** - Rick Catlin
Topic: Introduction to DENR
Update on Coal Ash

Respectfully,

Representative Rick Catlin, Co-Chair
Representative Pat McElraft, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 1:12 PM on Thursday, March 19, 2015.

___ Principal Clerk
___ Reading Clerk – House Chamber

Nancy Fox (Committee Assistant)

House Committee on Environment
Thursday, March 26, 2015, 10:00 AM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Presentations

Introduce Secretary Van der Vaart- he will do DENR staff introductions.
Coal Ash Update - Tom Reeder

Other Business

Adjournment

House Committee on Environment
Thursday, March 26, 2015 at 10:00 AM
Room 544 of the Legislative Office Building

MINUTES

The House Committee on Environment met at 10:00 AM on March 26, 2015 in Room 544 of the Legislative Office Building. Representatives: Catlin, Adams, Baskerville, Bradford, Brisson, Brockman, Carney, Dixon, Harrison, Iler, Insko, Martin, McGrady, Steinburg, Yarborough attended.

Representative Rick Catlin, Chair, presided.

Department of Environment and Natural Resources Introduction:
Secretary Van der Vaart and staff.
Coal Ash Update by Tom Reeder, Dep. Secretary of DENR
See Attachment 1
The meeting adjourned at 11:00AM.

Representative Rick Catlin, Chair
Presiding

Laura Holt-Kabel, Committee Clerk

ATTENDANCE

House Environment Committee

(Nancy Fox___ and Laura Holt-Kabel ___)

DATES	3/26														
Rep. Rick Catlin, Chair	✓														
Rep. Pat McElraft, Chair															
Rep. Jay Adams, Vice	✓														
Rep. Nathan Baskerville	✓														
Rep. John Bradford	✓														
Rep. Bill Brawley															
Rep. William Brisson	✓														
Rep. Cecil Brockman	✓														
Rep. Becky Carney	✓														
Rep. Jeff Collins															
Rep. Jimmy Dixon	✓														
Rep. Mike Hager															
Rep. Pricey Harrison, Vice	✓														
Rep. Frank Iler	✓														
Rep. Verla Insko	✓														
Rep. Paul Leubke															
Rep. Grier Martin	✓														
Rep. Chuck McGrady, Vice	✓														
Rep. Chris Millis															
Rep. Bob Steinburg	✓														
Rep. Sarah Stevens															
Rep. Roger West															
Rep. Larry Yarborough	✓														
Staff:															
Jeffrey Hudson															
Mariah Matheson															
Jennifer McGinnis															
Jennifer Mundt															
Chris Saunders															

Attachment 1

DENR – Coal Ash Update

House Environment Committee

March 26, 2015

Overview

- Implementation of EO 62 & Coal Ash Management Act
- Enforcement Actions
- Litigation
- Challenges

Implementation of EO 62 & CAMA

Actions Completed:

- Quantification of all coal combustion residuals in NC
- Identification & location of all water supply wells within ½ mile of compliance boundaries for all 14 facilities
- Ongoing sampling of wells within 1000 feet
  - Health Risk Evaluations prepared by DHHS
- Approval of groundwater assessment plans for all 14 facilities
- Identification & location of all unauthorized surface discharges
- Draft NPDES Wastewater and Stormwater Permits noticed for Allen, Riverbend, and Marshall facilities
  - Public hearing scheduled for April 8 in Lincolnton

Implementation of EO 62 & CAMA

Actions Completed:

- Draft NPDES Wastewater and Stormwater Permits for Sutton, Dan River, and Asheville to be noticed by April 30
- Draft Structural Fill Permits, Mine Reclamation Permits, and 401 Certifications for Brickhaven and Colon Mines noticed for public comment and hearing.
  - Hearings scheduled for April 13 and 16
- Comprehensive inspections of all dams and camera inspections of all associated piping
- All deadlines within EO 62 & CAMA have been met
- All documents posted on webpage / public process

Enforcement Activities

- Criminal action US DOJ v. Duke
- Holding Duke Accountable for violations of Clean Water Act - Joint NC DENR -EPA civil action for surface water violations to proceed after conclusion of criminal charges
- Holding Duke Accountable for Groundwater violations
  - State Only
  - NOVs issued for Sutton and Asheville
  - Penalty assessment of $25,100,000 for Sutton groundwater
  - Further groundwater NOVs are possible

Litigation Activities

- Current State Civil Lawsuit
- All 14 Sites
- Lawsuits Requested
  - Elimination of Unauthorized Seeps
  - Assessment of Groundwater Contamination
- Impact of CAMA and Federal Coal Ash Rule currently being considered

Challenges

- Decanting Issue with US EPA
- CAMA Clarifications
  - New Law
  - Comprehensive and Fitting Into Existing Regulatory Structure
    - Need AG Clarification on several issues

Decanting Issue

- NC DENR tried to initiate decanting activities in August 2014
  - Within existing permit limits/no violation of water quality standards
  - Would reduce pressure on dams and hydraulic head on groundwater
  - Would allow for more expeditious excavation of ash
- EPA objected in September & required NPDES permit mods
  - No treatment of decant water required beyond existing permits
- Decanting of coal ash ponds delayed 6 to 9 months
- Will delay excavation activities by 6 to 9 months

AG's Office Clarifications

- CAMA: comprehensive, multi-disciplinary and inter-divisional
- Working into current regulatory/statutory structure
- Ensuring expediting coal ash removal

Looking Forward

- Public notice and comment on permits necessary to begin ash excavation at Riverbend, Asheville, Sutton, and Dan River
  - Decanting / dewatering of ponds
  - Initial ash excavation in Summer of 2015
- Public notice and comment on NPDES discharge and stormwater permits for remaining facilities
- Continued implementation and analysis of groundwater assessment plans
  - Prioritization of all facilities by December 2015

Cancelled Notice

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2015-2016 SESSION

You are hereby notified that the **House Committee on Environment** will **NOT** meet as follows:

DAY & DATE: Thursday, April 2, 2015
TIME: **10:00 AM**
LOCATION: **544 LOB**
COMMENTS:

Rep. Pat McElraft, Presiding
TOPIC: DENR OVERVIEW
HB 186

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 186	Cape Fear Water Resources Availability Study.	Representative Catlin Representative Szoka Representative Glazier

Respectfully,

Representative Rick Catlin, Co-Chair
Representative Pat McElraft, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 9:23 AM on Wednesday, April 01, 2015.

___ Principal Clerk
___ Reading Clerk – House Chamber

Nancy Fox (Committee Assistant)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2015-2016 SESSION

You are hereby notified that the **House Committee on Environment** will meet as follows:

DAY & DATE: Thursday, April 16, 2015
TIME: **10:00 AM**
LOCATION: **544 LOB**
COMMENTS: **Chair: Rep. Pat McElraft**

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 186	Cape Fear Water Resources Availability Study.	Representative Catlin Representative Szoka Representative Glazier
HB 430	County Omnibus Legislation.	Representative McElraft Representative Carney Representative McGrady
HB 571	Implementation of Carbon Dioxide Regulations.	Representative McGrady Representative Hager Representative Robinson

Respectfully,

Representative Rick Catlin, Co-Chair
Representative Pat McElraft, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 2:41 PM on Tuesday, April 14, 2015.

___ Principal Clerk
___ Reading Clerk – House Chamber

Nancy Fox (Committee Assistant)

House Committee on Environment
Thursday, April 16, 2015, 10:00 AM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 186	Cape Fear Water Resources Availability Study.	Representative Catlin Representative Szoka Representative Glazier
HB 430	County Omnibus Legislation.	Representative McElraft Representative Carney Representative McGrady
HB 571	Implementation of Carbon Dioxide Regulations.	Representative McGrady Representative Hager Representative Robinson
HB 638	Capitalize on Wetland Mitigation.	Representative Millis Representative J. Bell Representative Pendleton

Presentations

HB 638 Will Be Heard First

Other Business

Adjournment

House Committee on Environment
Thursday, April 16, 2015 at 10:00 AM
Room 544 of the Legislative Office Building

MINUTES

The House Committee on Environment met at 10:00 AM on April 16, 2015 in Room 544 of the Legislative Office Building. Representatives Adams, Baskerville, Bradford, Brockman, Carney, Catlin, Collins, Dixon, Hager, Harrison, Iler, Insko, G. Martin, McElraft, McGrady, Millis, Stevens, West, and Yarborough attended.

Representative Pat McElraft, Chair, presided.

The following bills were considered:

HB 186 Cape Fear Water Resources Availability Study. (Representatives Catlin, Szoka, Glazier)
Unfavorable Original Bill, Favorable to Committee Substitute

HB 430 County Omnibus Legislation. (Representatives McElraft, Carney, McGrady)
Favorable to Committee Substitute, Unfavorable Original Bill and Re-Referred

HB 571 Implementation of Carbon Dioxide Regulations. (Representatives McGrady, Hager, Robinson)
Favorable To Original Bill

HB 638 Capitalize on Wetland Mitigation. (Representatives Millis, J. Bell, Pendleton)
Favorable To Original Bill

The meeting adjourned at 11:00.

Representative Pat McElraft, Chair
Presiding

Nancy Fox, Committee Clerk

ATTENDANCE

House Environment Committee

(Nancy Fox___ and Laura Holt-Kabel ___)

DATES															
Rep. Rick Catlin, Chair	✓														
Rep. Pat McElraft, Chair	✓														
Rep. Jay Adams, Vice	✓														
Rep. Nathan Baskerville	✓														
Rep. John Bradford	✓														
Rep. Bill Brawley															
Rep. William Brisson															
Rep. Cecil Brockman	✓														
Rep. Becky Carney	✓														
Rep. Jeff Collins	✓														
Rep. Jimmy Dixon	✓														
Rep. Mike Hager	✓														
Rep. Pricey Harrison, Vice	✓														
Rep. Frank Iler	✓														
Rep. Verla Insko	✓														
Rep. Paul Leubke															
Rep. Grier Martin	✓														
Rep. Chuck McGrady, Vice	✓														
Rep. Chris Millis	✓														
Rep. Bob Steinburg															
Rep. Sarah Stevens	✓														
Rep. Roger West	✓														
Rep. Larry Yarborough	✓														
Staff:															
Jeffrey Hudson															
Mariah Matheson															
Jennifer McGinnis															
Jennifer Mundt															
Chris Saunders															

HOUSE BILL 571

Short Title:	Implementation of Carbon Dioxide Regulations.	(Public)
Sponsors:	Representatives McGrady, Hager, and Robinson (Primary Sponsors). *For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*	
Referred to:	Environment.	

April 6, 2015

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO DEVELOP A STATE IMPLEMENTATION PLAN IN COMPLIANCE WITH THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY'S REGULATION OF CARBON DIOXIDE EMISSIONS FOR EXISTING STATIONARY SOURCES.

The General Assembly of North Carolina enacts:

SECTION 1. Definitions. – The following definitions apply to this act:

(1) "Department" means the Department of Environment and Natural Resources.

(2) "Electric generating unit" means a steam generating unit, an integrated gasification combined cycle facility, or a stationary combustion turbine regulated under the EPA Clean Power Plan.

(3) "Electric power supplier" means a public utility, an electric membership corporation, or a municipality that sells electric power to the retail electric power customers in the State.

(4) "Environmental Protection Agency" or "EPA" means the United States Environmental Protection Agency or the Administrator of the United States Environmental Protection Agency.

(5) "EPA Clean Power Plan" means the Environmental Protection Agency's regulation of carbon dioxide emissions for existing stationary sources, as published under docket EPA-HQ-OAR-2013-0602, and as subsequently amended by the EPA.

(6) "State Plan" means the State Plan authorized by the EPA Clean Power Plan.

SECTION 2. In accordance with the requirements of the Environmental Protection Agency's regulation of carbon dioxide emissions for existing stationary sources, as published under docket EPA-HQ-OAR-2013-0602, and as subsequently amended by the EPA, the Department of Environment and Natural Resources shall develop a State Plan for compliance with the EPA Clean Power Plan. In developing the State Plan, the Department shall do all of the following:

(1) Develop the State Plan in consultation with the Environmental Management Commission and the Utilities Commission.

(2) Establish a State Plan Advisory Board to assist it with the development of the State Plan. The State Plan Advisory Board shall consist of all of the following:

a. Representatives of other State agencies with expertise related to the development of the State Plan or responsibility for implementing the State Plan, including the Governor's Office.
b. Representatives of electric power consumers, including the Public Staff of the Utilities Commission.
c. Representatives of electric power suppliers.
d. Representatives of nongovernmental environmental protection and conservation organizations.
e. Representatives of businesses that provide renewable energy or renewable energy equipment and infrastructure.
f. Representatives of scientific, academic, or research institutions with expertise in electric power generation and supply, the regulation and management of carbon dioxide emissions, and the public health effects of carbon dioxide emissions.
g. Persons or representatives of any other entities that the Department determines could provide assistance in the development of the State Plan.

(3) Hold at least three public hearings no later than February 1, 2016, for the purpose of obtaining evidence and information regarding the development of the State Plan. The Department shall have the power to subpoena witnesses for such purposes. One of these public hearings shall be held in the mountain region of the State, one in the central region of the State, and one in the coastal region of the State. The Department may hold additional public hearings for the purpose of obtaining evidence and information regarding the development of the State Plan. The Department shall accept and consider all oral testimony received regarding the development of the State Plan.

(4) Establish a Web site capable of receiving written testimony regarding the development of the State Plan and to inform the public of the Department's progress in implementing this act. The Department shall accept and consider all written testimony submitted regarding the development of the State Plan.

(5) Determine how much credit the State will receive toward meeting carbon dioxide reduction goal set out in the EPA Clean Power Plan based on actions the State has already taken to encourage the development of renewable energy sources and to reduce emissions from electric generating units.

(6) Consider all of the following in the development of the State Plan:
a. Whether to rely on measures the Environmental Protection Agency used to calculate the carbon dioxide reduction goal, as well as other measures that were not part of the Environmental Protection Agency's goal-setting process.
b. Whether the State should participate in multistate carbon dioxide reduction programs that already exist, or whether a new multistate carbon dioxide reduction program should be established.
c. Whether the State should collaborate with one or more other states for purposes of compliance with the EPA Clean Power Plan.
d. Whether the State should invest in energy efficiency programs to assist in complying with the EPA Clean Power Plan.
e. When individual electric generating units must make reductions.
f. How to provide flexibility to electric power suppliers in complying with the State Plan.
g. The extent to which any of the following should be included in the State Plan:

1. Demand-side energy efficiency programs.
2. Renewable energy standards.
3. Efficiency improvements at existing electric generating units.
4. Cofiring or switching to natural gas, transmission efficiency improvements, and energy storage technologies, to the extent the EPA allows these measures for compliance with the EPA Clean Power Plan.
5. The retirement or deactivation of existing electric generating units.
6. The expansion of nonremitting sources, such as nuclear power.
7. Market-based trading.
8. Other energy conservation programs.
9. Other methods of compliance.

h. How best to avoid stranded investments in existing electric generating units, including a consideration of the remaining useful life of each electric generating unit.

(7) Prioritize the components of the State Plan based on a least-cost compliance approach to benefit the retail electric power customers in the State.

(8) Consider the necessity and value of having a diverse generation fleet to ensure electric reliability in the State.

(9) Consider the feasibility and value of including in the State Plan a process that would allow exceedances of the EPA Clean Power Plan to occur within the State when necessary to ensure reliable electric service, maintain safe operations, or prevent excessive increases in rates. If the Department determines that the State Plan should include such a process, the Department shall work with the Utilities Commission and the State Plan Advisory Board to define excessive increases in rates.

(10) Consider whether to request from the Environmental Protection Agency an extension of time from the June 30, 2016, State Plan submission deadline in order to fully consider the factors set out in this act and to allow adequate time for the State to enact or amend applicable State law necessary for establishment of a State Plan that will comply with the requirements of the EPA Clean Power Plan. Notwithstanding this subdivision, the Department shall submit all the information required for initial submittals under the EPA Clean Power Plan.

(11) Meet at least monthly with the Environmental Management Commission, the Utilities Commission, and the Advisory Board in the development of the State Plan.

SECTION 3. The Department shall provide interim reports on its progress in implementing this act and developing the State Plan to the Environmental Review Commission no later than October 1, 2015, and January 1, 2016. The Department shall provide a final report on its progress in implementing this act and developing the State Plan to the Environmental Review Commission no later than April 1, 2016.

SECTION 4. The State Plan established by the Department pursuant to this act or any other State or federal law shall have no legal effect if any of the following occurs:

(1) The Environmental Protection Agency fails to issue or withdraws the EPA Clean Power Plan.

(2) A court of competent jurisdiction invalidates the EPA Clean Power Plan.

SECTION 5. This act is effective when it becomes law.

HOUSE BILL 638

Short Title:	Capitalize on Wetland Mitigation.	(Public)
Sponsors:	Representatives Millis, J. Bell, and Pendleton (Primary Sponsors). *For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*	
Referred to:	Environment.	

April 14, 2015

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, IN COOPERATION WITH THE WILDLIFE RESOURCES COMMISSION, TO TAKE ACTION THAT ENCOURAGES WETLAND MITIGATION PRACTICES SUPPORTIVE OF PUBLIC RECREATION AND HUNTING ON MITIGATION SITES.

The General Assembly of North Carolina enacts:

SECTION 1. It is the intent of the General Assembly to capitalize on the establishment of public and private wetland mitigation banks that serve to meet federal mitigation requirements for wildlife habitat and hunting opportunities. The directives to Department of Environment and Natural Resources and the Wildlife Resources Commission enacted in this act are intended to facilitate voluntary cooperation by third-party groups to realize the goal of increased wildlife habitats and hunting opportunities on lands contained within public and private wetland mitigation banks through the pursuit of federal mitigation credits without increasing the cost of achieving those credits.

SECTION 2. Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-214.15. Compensatory mitigation for diverse habitats.**

(a) The Department of Environment and Natural Resources shall seek more net gains of aquatic resources through compensatory mitigation by increasing wetland establishment of diverse habitats, including emergent marsh habitat, shallow open water, and other forested and non-forested wetland habitats.

(b) The Department of Environment and Natural Resources shall further establish with the district engineer of the Wilmington District of the United States Army Corps of Engineers compensatory mitigation credit ratios that incentivize the creation or establishment of diverse wetland habitats to support waterfowl and other wildlife.

(c) The Department of Environment and Natural Resources shall work in cooperation with the Wildlife Resources Commission to ensure that all purchased mitigation lands or conservation easements on these lands maximize opportunities for public recreation, including hunting, and promote wildlife and biological diversity. The Department and the Commission shall pursue the voluntary involvement of third-party groups to leverage resources and ensure that there is no additional cost to private mitigation bankers or the taxpayers in achieving these mitigation credits.

(d) The Office of Land and Water Stewardship of the Department of Environment and Natural Resources shall catalog an inventory of all its land holdings and determine how many

of those holdings are potential wildlife habitats, either as currently held or with some modification. The Wildlife Resources Commission shall conduct a third-party review of this inventory, and the Commission and the Office of Land and Water Stewardship shall both report their findings to the Environmental Review Commission as part of the report required under subsection (f) of this section.

(e) If private individuals, corporations, or other nongovernmental entities wish to purchase any of the inventory of land suitable for wildlife habitat, then the Office of Land and Water Stewardship of the Department of Environment and Natural Resources shall issue a request for proposal to all interested respondents for the purchase of the land, and the State shall have the ability to accept or reject any offer.

(f) The Department of Environment and Natural Resources shall report to the Environmental Review Commission by March 1 of each year on its progress in complying with the provisions of this section."

SECTION 3. This act is effective when it becomes law.

HOUSE BILL 430*

Short Title:	County Omnibus Legislation.	(Public)
Sponsors:	Representatives McElraft, Carney, and McGrady (Primary Sponsors). *For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*	
Referred to:	Environment, if favorable, Finance.	

April 1, 2015

A BILL TO BE ENTITLED

AN ACT REESTABLISHING THE STATE PAYMENT IN LIEU OF TAXES STUDY COMMISSION; DIRECTING THE ENVIRONMENTAL REVIEW COMMISSION TO STUDY ISSUES RELATING TO STATEWIDE APPROACHES TO CONTROL INVASIVE AQUATIC NOXIOUS WEEDS IN THE STATE'S WATERS; DIRECTING THE REVENUE LAWS COMMITTEE TO STUDY ISSUES RELATING TO THE FINANCIAL IMPACTS ON LOCAL GOVERNMENTS OF EXEMPTING PREVIOUSLY TAXABLE PROPERTIES FROM THE PROPERTY TAX BASE WHEN ACQUIRED BY NONPROFITS; AND CLARIFYING THE AUTHORITY OF COUNTIES TO ESTABLISH RESIDENTIAL RECYCLABLE MATERIALS COLLECTION PROGRAMS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The State Payment in Lieu of Taxes Study Commission is established. The Commission shall consist of 13 members appointed as follows:

(1) Three members of the House of Representatives appointed by the Speaker of the House of Representatives.

(2) Three members of the Senate appointed by the President Pro Tempore of the Senate.

(3) The Secretary of Revenue or the Secretary's designee.

(4) Three members of the public appointed by the Speaker of the House of Representatives, two based on the recommendation of the North Carolina Association of County Commissioners and one based on the recommendation of the North Carolina League of Municipalities.

(5) Three members of the public appointed by the President Pro Tempore of the Senate, two based on the recommendation of the North Carolina Association of County Commissioners and one based on the recommendation of the North Carolina League of Municipalities.

SECTION 1.(b) The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each designate a cochair. The Commission may meet at any time upon the joint call of the cochairs. A quorum of the Commission shall be a majority of its members. No action may be taken except by a majority vote at a meeting at which a quorum is present.

SECTION 1.(c) Vacancies on the Commission shall be filled by the same appointing authority that made the initial appointment.

SECTION 1.(d) Subject to the approval of the Legislative Services Commission, the Commission may meet in the Legislative Building or the Legislative Office Building.

SECTION 1.(e) The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Commission in its work. The House of Representatives' and the Senate's Director of Legislative Assistants shall assign clerical support staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission.

SECTION 1.(f) The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

SECTION 1.(g) Members of the Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 1.(h) The Commission shall study issues relating to the development of a State payment in lieu of taxes for State properties, including wildlife and game lands. The Commission may consider any other issues deemed relevant.

SECTION 1.(i) The Commission may submit an interim report on the results of its study, including any proposed legislation, to the members of the Senate and the House of Representatives at any time by filing a copy of the report with the Office of the President Pro Tempore of the Senate, the Office of the Speaker of the House of Representatives, and the Legislative Library. The Commission shall submit a final report on the results of its study, including any proposed legislation, to the members of the Senate and the House of Representatives, prior to the convening of the 2017 General Assembly, by filing a copy of the report with the Office of the President Pro Tempore of the Senate, the Office of the Speaker of the House of Representatives, and the Legislative Library. The Committee shall terminate upon the convening of the 2017 General Assembly or upon the filing of its final report, whichever occurs first.

SECTION 2. The Environmental Review Commission is directed to study issues relating to statewide approaches to control invasive aquatic noxious weeds in the State's waters, including funding needed to support statewide control. The Commission may consider any other issues deemed relevant.

The Commission shall report its findings and recommendation on statewide approaches to control invasive aquatic weeds to the 2016 Regular Session of the 2015 General Assembly.

SECTION 3. The Revenue Laws Study Committee is directed to study issues relating to the financial impacts on local governments of exempting previously taxable properties from the property tax base when acquired by nonprofits. The Committee may consider any other issues deemed relevant.

The Committee shall report its findings and recommendation on the financial impacts of exempting previously taxable properties to the 2016 Regular Session of the 2015 General Assembly.

SECTION 4. G.S. 153A-292 reads as rewritten:

"**§ 153A-292. County collection and disposal ~~facilities.~~facilities; residential recyclable collection programs.**

(a) The board of county commissioners of any county may establish and operate solid waste collection and disposal facilities in areas outside the corporate limits of a city. The board may by ordinance regulate the use of a disposal facility provided by the county, the nature of the solid wastes disposed of in a facility, and the method of disposal. The board may contract with any city, individual, or privately owned corporation to collect and dispose of solid waste in the area. Counties and cities may establish and operate joint collection and disposal facilities. A joint agreement shall be in writing and executed by the governing bodies of the participating

units of local government. The board may, by ordinance, establish a program for the collection of residential recyclable materials.

(b) The board of county commissioners may impose a fee for the collection of solid waste. The fee may not exceed the costs of collection.

The board of county commissioners may impose a fee for the use of a disposal facility provided by the county. Except as provided in this subsection, the fee for use may not exceed the cost of operating the facility. The fee may exceed those costs if the county enters into a contract with another local government located within the State to accept the other local government's solid waste and the county by ordinance levies a surcharge on the fee. The fee authorized by this paragraph may only be used to cover the costs of operating the facility. The surcharge authorized by this paragraph may be used for any purpose for which the county may appropriate funds. A fee under this paragraph may be imposed only on those who use the facility. The fee for use may vary based on the amount, characteristics, and form of recyclable materials present in solid waste brought to the facility for disposal. A county may not impose a fee for the use of a disposal facility on a city located in the county or a contractor or resident of the city unless the fee is based on a schedule that applies uniformly throughout the county.

The board of county commissioners may impose a fee for the availability of a disposal facility provided by the county. A fee for availability may not exceed the cost of providing the facility and may be imposed on all improved property in the county that benefits from the availability of the facility. A county may not impose an availability fee on property whose solid waste is collected by a county, a city, or a private contractor for a fee if the fee imposed by a county, a city, or a private contractor for the collection of solid waste includes a charge for the availability and use of a disposal facility provided by the county. Property served by a private contractor who disposes of solid waste collected from the property in a disposal facility provided by a private contractor that provides the same services as those provided by the county disposal facility is not considered to benefit from a disposal facility provided by the county and is not subject to a fee imposed by the county for the availability of a disposal facility provided by the county. To the extent that the services provided by the county disposal facility differ from the services provided by the disposal facility provided by a private contractor in the same county, the county may charge an availability fee to cover the costs of the additional services provided by the county disposal facility.

The board of county commissioners may impose a fee for a residential recyclable materials collection program provided by the county. The fee may not exceed the cost of providing the collection service and may be imposed on all benefited improved property along designated collection routes. A county may not impose a recyclable materials collection program fee on improved property from which residential recyclable material is collected by a private contractor for a fee if the private contractor collects the same recyclable materials as those collected by the county collection program. The fee may be imposed in full if the private contractor does not, at a minimum, collect the same recyclable materials collected by the county. Upon presentation to the county of a valid contract for recyclable materials collection service between the property owner or current resident and a private contractor, the improved property is not considered to benefit from a residential recyclable materials collection program provided by the county and is not subject to a fee imposed by the county for the residential recyclable materials collection program provided by the county. A prorated fee may be assessed to benefit improved property for any portion of a calendar year the property is not served by a private contractor.

In determining the costs of providing and operating a disposal ~~facility,~~ facility or residential recyclable materials collection program, a county may consider solid waste management costs incidental to a county's handling and disposal of solid waste at its disposal ~~facility,~~ facility or operating its residential materials collection program, including the costs of the methods of solid waste management specified in G.S. 130A-309.04(a) of the Solid Waste Management Act

of 1989. A fee for the availability or use of a disposal facility may be based on the combined costs of the different disposal facilities provided by the county. A fee for the residential recyclable materials collection program may be based on the combined costs of collecting different materials and may be based on the differing levels of service provided.

A county may operate a residential recyclable materials collection program within the corporate limits of a city if the governing body of the city adopts a resolution to that effect.

(b1) The ~~collection, disposal, and availability~~ fees authorized by this section may be used to cover the cost of waste management programs in the jurisdiction, including the collection of waste and the collection of litter along public roadways.

(c) The board of county commissioners may use any suitable vacant land owned by the county for the site of a disposal facility, subject to the permit requirements of Article 9 of Chapter 130A of the General Statutes. If the county does not own suitable vacant land for a disposal facility, it may acquire suitable land by purchase or condemnation. The board may erect a gate across a highway that leads directly to a disposal facility operated by the county. The gate may be erected at or in close proximity to the boundary of the disposal facility. The county shall pay the cost of erecting and maintaining the gate.

(d), (e) Repealed by Session Laws 1991, c. 652, s. 1.

(f) This section does not prohibit a county from providing aid to low-income persons to pay all or part of the cost of solid waste management services for those persons."

SECTION 5. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 430*

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H430-ASB-10 [v.2]

Comm. Sub. [NO]
Amends Title [NO]
First Edition

Date _____,2015

Representative McElraft

moves to amend the bill on page 2, line 25,
by deleting the word "Committee" and substituting the word "Commission".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES

ENVIRONMENT COMMITTEE REPORT
Representative Rick Catlin, Co-Chair
Representative Pat McElraft, Co-Chair

FAVORABLE

HB **571** Implementation of Carbon Dioxide Regulations.

Draft Number:	None
Serial Referral:	None
Recommended Referral:	None
Long Title Amended:	No
Floor Manager:	McGrady

HB **638** Capitalize on Wetland Mitigation.

Draft Number:	None
Serial Referral:	None
Recommended Referral:	None
Long Title Amended:	No
Floor Manager:	Millis

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

HB **430** County Omnibus Legislation.

Draft Number:	H430-PCS20310-SB-6
Serial Referral:	**FINANCE**
Recommended Referral:	None
Long Title Amended:	No
Floor Manager:	McElraft

TOTAL REPORTED: 3

HOUSE BILL 186

Short Title:	Cape Fear Water Resources Availability Study.	(Public)
Sponsors:	Representatives Catlin, Szoka, and Glazier (Primary Sponsors). *For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*	
Referred to:	Environment.	

March 11, 2015

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE ENVIRONMENTAL RESOURCES COMMISSION TO CONDUCT A STUDY OF WATER RESOURCES AVAILABILITY IN THE CAPE FEAR RIVER BASIN.

The General Assembly of North Carolina enacts:

SECTION 1. The Environmental Review Commission, with the assistance of the Department of Environment and Natural Resources, shall study the aggregate uses of groundwater and surface water in or affecting the Cape Fear River Basin by all users, including, but not limited to, public water systems, industrial facilities, and agricultural operations. The study will include all of the following elements: (i) a summary of the current and 50-year projected water-use demands along with the available water supplies for those portions of Alamance, Bladen, Brunswick, Caswell, Chatham, Columbus, Cumberland, Duplin, Durham, Guilford, Harnett, Hoke, Lee, Moore, New Hanover, Onslow, Orange, Pender, Randolph, Richmond, Robeson, Rockingham, Sampson, Scotland, and Wake counties within the Cape Fear River Basin; (ii) an evaluation of the adequacy of currently available supplies to meet the expected long-range needs for all water demands, including the identification of those areas of the basin that do not have a sustainable long-term water supply for the anticipated growth of that area; (iii) the identification of potential conflicts among the various users and recommendations for developing and enhancing coordination among users and groups of users in order to avoid or minimize those conflicts; and (iv) an enhanced review of the portions of the Cape Fear River Basin within Brunswick, New Hanover, and Pender Counties addressing the increased demands on groundwater and limited surface water options in that area.

The findings of the study will be included within the Department's Cape Fear River Basin Plan. All the information and any analytical tools, such as models, employed in the conduct of the study will be made available electronically for public review and use from the Web site of the Department's Division of Water Resources.

The Environmental Review Commission may submit an interim report to the 2016 Regular Session of the 2015 General Assembly and shall submit a final report of its findings and recommendations, including any legislative proposals, to the 2017 General Assembly.

SECTION 2. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 186

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H186-ATA-9 [v.1]

Comm. Sub. [NO]
Amends Title [YES]
First Edition

Date _____ ,2015

Representative Catlin

moves to amend the bill on page 1, line 2,
by replacing the word "RESOURCES" with the word "REVIEW".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES

ENVIRONMENT COMMITTEE REPORT
Representative Rick Catlin, Co-Chair
Representative Pat McElraft, Co-Chair

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL

HB **186** Cape Fear Water Resources Availability Study.

Draft Number:	H186-PCS10343-TA-2
Serial Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes
Floor Manager:	Catlin

TOTAL REPORTED: 1

HOUSE PAGES

NAME OF COMMITTEE H CMTE ON ENVIRONMENT DATE 16 APR 2015

1. Name: Rachel Chism
   County: Guilford
   Sponsor: John Faircloth
2. Name: Will Dunn, III
   County: Pitt
   Sponsor: BRIAN BROWN
3. Name: _____
   County: _____
   Sponsor: _____
4. Name: _____
   County: _____
   Sponsor: _____
5. Name: _____
   County: _____
   Sponsor: _____

Roger
B.
Hanson
adam

SGT-AT-ARM

1. Name: BARRY MOORE
2. Name: B. H. Powell
3. Name: DAVID LINTHICUM
4. Name: _____

VISITOR REGISTRATION SHEET

House cmte on environment
Judiciary I — 16 APR 2015
Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[illegible]	NCWPC
Mdntte	Duke Energy
Susan Vick	Duke Energy
Kara Weishaar	SA
Will Morgan	TNC
David M'Gowan	NCPC
Rick Zechini	WR

VISITOR REGISTRATION SHEET

House cmte on Environment
Judiciary I
Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Preston Howard	NCMA
George Everett	Duke Energy
Hugh Johnson	NCACC
Tommy McEwen	City of Wilmington
David Heinen	NC Center for Nonprofits
Destin Chauvel-Bunyan?	Sierra Club
Molly Diggins	Sierra Club
Jacqueline Ayala	Sierra Club
Paul Sherman	NCFB
Tommy Severn	NCVA
Mia Bailey	ElectriCities

VISITOR REGISTRATION SHEET

HOUSE CMTE ON ENVIRONMENT 16 APR 2015

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Rhian Mennald	WM
Tom Franzen	DWR, NCDENR
Sharon Miller	CUCA
Cindy Ohms	CUCA
Grady McAuley	NCCN
BRAD KNOTT	DENR
Crystal Feldman	"
Tom Reeder	"
Cassie Gavin	Sierra Club
Tom Benn	EDF, NCWF

Corrected #1: Bill Added to Calendar

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2015-2016 SESSION

You are hereby notified that the **House Committee on Environment** will meet as follows:

DAY & DATE: Tuesday, April 21, 2015
TIME: **11:00 AM**
LOCATION: **423 LOB**
COMMENTS: **Rep. Catlin will Chair.**

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 141	Stormwater/Flood Control Activities.	Representative Jeter Representative Cotham Representative Cunningham Representative Bradford
HB 576	Amend Environmental Laws - 1.	Representative McElraft
HB 593	Amend Environmental Laws - 2.	Representative McElraft
HB 538	Clarify Water and Sewer Authority Powers.	Representative Millis
HB 630	Alternative WQ Protection for Falls Lake.	Representative Yarborough

Respectfully,

Representative Rick Catlin, Co-Chair
Representative Pat McElraft, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 10:21 AM on Friday, April 17, 2015.

___ Principal Clerk
___ Reading Clerk – House Chamber

Laura Holt-Kabel (Committee Assistant)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2015-2016 SESSION

You are hereby notified that the **House Committee on Environment** will meet as follows:

DAY & DATE: Tuesday, April 21, 2015
TIME: **11:00 AM**
LOCATION: **423 LOB**
COMMENTS: **Rep. Catlin will Chair.**

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 141	Stormwater/Flood Control Activities.	Representative Jeter Representative Cotham Representative Cunningham Representative Bradford
HB 576	Amend Environmental Laws - 1.	Representative McElraft
HB 593	Amend Environmental Laws - 2.	Representative McElraft
HB 630	Alternative WQ Protection for Falls Lake.	Representative Yarborough

Respectfully,

Representative Rick Catlin, Co-Chair
Representative Pat McElraft, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 3:25 PM on Thursday, April 16, 2015.

___ Principal Clerk
___ Reading Clerk – House Chamber

Laura Holt-Kabel (Committee Assistant)

House Committee on Environment
Tuesday, April 21, 2015, 11:00 AM
423 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 141	Stormwater/Flood Control Activities.	Representative Jeter Representative Cotham Representative Cunningham Representative Bradford
HB 576	Amend Environmental Laws - 1.	Representative McElraft
HB 593	Amend Environmental Laws - 2.	Representative McElraft
HB 538	Clarify Water and Sewer Authority Powers.	Representative Millis
HB 630	Alternative WQ Protection for Falls Lake.	Representative Yarborough

Presentations

Other Business

Adjournment

House Committee on Environment
Tuesday, April 21, 2015 at 11:00 AM
Room 423 of the Legislative Office Building

MINUTES

The House Committee on Environment met at 11:00 AM on April 21, 2015 in Room 423 of the Legislative Office Building. Representatives Adams, Bradford, Brawley, Brisson, Brockman, Catlin, Collins, Dixon, Hager, Harrison, Iler, Luebke, G. Martin, McElraft, McGrady, Millis, Stevens, West, and Yarborough attended.

Representative Rick Catlin, Chair, presided.

The following bills were considered:

HB 141 Stormwater/Flood Control Activities. (Representatives Jeter, Cotham, Cunningham, Bradford)

Reported Favorable and serial referral to Local Government
HB 576 Amend Environmental Laws-2. (Representative McElraft)
Unfavorable to original bill, Favorable to Committee Substitute, serial referral to Finance

HB 593 Amend Environmental Laws-3. (Representative McElraft)
Unfavorable to original bill, Favorable to Committee Substitute, serial referral to Judiciary I

HB 538 Clarify Water and Sewer Authority Powers. (Representative Millis)

Favorable to original bill.
HB 630 Alternative WQ Protection for Falls Lake. (Representative Yarborough)
Favorable to original bill.

The meeting adjourned at 10:55 AM.

Representative Rick Catlin, Chair
Presiding

Laura Holt-Kabel, Committee Clerk

ATTENDANCE

House Environment Committee

(Nancy Fox___ and Laura Holt-Kabel ___)

DATES	4/21														
Rep. Rick Catlin, Chair	✓														
Rep. Pat McElraft, Chair	✓														
Rep. Jay Adams, Vice	✓														
Rep. Nathan Baskerville															
Rep. John Bradford	✓														
Rep. Bill Brawley	✓														
Rep. William Brisson	✓														
Rep. Cecil Brockman	✓														
Rep. Becky Carney															
Rep. Jeff Collins	✓														
Rep. Jimmy Dixon	✓														
Rep. Mike Hager	✓														
Rep. Pricey Harrison, Vice	✓														
Rep. Frank Iler	✓														
Rep. Verla Insko															
Rep. Paul Leubke	✓														
Rep. Grier Martin	✓														
Rep. Chuck McGrady, Vice	✓														
Rep. Chris Millis	✓														
Rep. Bob Steinburg															
Rep. Sarah Stevens	✓														
Rep. Roger West	✓														
Rep. Larry Yarborough	✓														
Staff:															
Jeffrey Hudson	✓														
Mariah Matheson	✓														
Jennifer McGinnis	✓														
Jennifer Mundt	✓														
Chris Saunders	✓														

HOUSE BILL 141

Short Title:	Stormwater/Flood Control Activities.	(Public)
Sponsors:	Representatives Jeter, Cotham, Cunningham, and Bradford (Primary Sponsors). *For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*	
Referred to:	Environment, if favorable, Local Government.	

March 4, 2015

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE CITIES TO UNDERTAKE ACTIVITIES WITHIN THEIR STORMWATER MANAGEMENT PROGRAMS TO IMPLEMENT FLOOD REDUCTION TECHNIQUES THAT RESULT IN IMPROVEMENTS TO PRIVATE PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. Article 16 of Chapter 160A of the General Statutes is amended by adding a new section to read as follows:

"**§ 160A-311.1. Flood control activities under stormwater management programs.**

(a) Findings. – The General Assembly finds that it is in the best interest of the residents of North Carolina to promote and fund the implementation of stormwater management programs to control and manage water quantity and flow in order to reduce the chances of loss of life and damage to property due to flooding. The General Assembly also finds that a city has an integral role in furthering this public purpose by promoting and funding implementation of stormwater management programs within the city's territorial jurisdiction to reduce reliance on emergency response services, to reduce negative financial impacts on the community and the public from flooding, including the cost of public infrastructure repairs, to decrease the number of flood-prone homes and businesses, to increase infiltration of stormwater into the ground, and to reduce pollutants from entering the streams.

(b) Scope. – For purposes of operating a public enterprise under this Article, a city is authorized to do any of the following activities within its stormwater management program:

(1) Purchase property for the purpose of demolishing flood-prone buildings.

(2) Implement flood damage reduction techniques that result in improvements to private property in accordance with subsection (c) of this section, to include:

a. Elevating structures or their associated components.

b. Demolishing flood-prone structures.

c. Retrofitting flood-prone structures.

(c) Policy Document. – A city may engage in the activities listed in subdivision (b)(2) of this section only under the circumstances contained in a policy document approved by the city council. The policy document shall, at a minimum, establish, and may elaborate on, the following:

(1) The private property owner's written consent must be obtained prior to the implementation of flood reduction improvements on the owner's property.

(2) The city has determined that improving the stormwater system is not practically feasible or cost-effective, and the activities listed in subdivision (b)(2) of this section provide savings to the stormwater fund.

(3) The improvements to the private property are the minimum necessary to accomplish the stormwater benefit.

(4) The funding provided by the city, above a certain amount, to the property owner or expended upon improvements to the property shall be reimbursed to the city if the property is sold within five years of the completion of the flood reduction improvement project. The amount of reimbursement due to the city may be calculated as the difference between the established premitigation fair market value and the sale price of the property, not to exceed the total funding provided by the city.

(5) The minimum financial contribution the private property owner must make to the flood reduction improvement project.

(d) Advisory Committee. – An existing stormwater advisory committee established by the city council, and having specific charges, duties, and representation as set forth by the city council, must review and approve projects that implement flood damage reduction techniques under subdivision (b)(2) of this section. The committee shall submit an annual report to the city council for its review.

(e) Application. – This section applies only to cities in a county which meets the following criteria: (i) the county has a population of 910,000 or greater according to the most recent annual population estimates certified by the State Budget Officer and (ii) the county has at least one city with a population of 500,000 or greater according to the most recent annual population estimates certified by the State Budget Officer."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 141:
Stormwater/Flood Control Activities

2015-2016 General Assembly

Committee:	House Environment, if favorable, Local Government	**Date:**	April 21, 2015
Introduced by:	Reps. Jeter, Cotham, Cunningham, Bradford	**Prepared by:**	Jeff Hudson Committee Counsel
Analysis of:	First Edition		

SUMMARY: ***House Bill 141 would authorize certain cities to undertake activities through their stormwater management programs to implement flood reduction techniques that result in improvements to private property.***

BILL ANALYSIS: House Bill 141 would authorize a city to engage in any of the following activities under its stormwater management program:

- Purchase property for the purpose of demolishing flood prone buildings.
- Implement flood damage reduction techniques that result in improvements to private property, including:
    - Elevating structures or their associated components.
    - Demolishing flood prone structures.
    - Retrofitting flood prone structures.

A city may only engage in these activities as provided in a policy document approved by the city council. The policy document must, at a minimum, provide that:

- The private property owner's written consent must be obtained prior to the implementation of flood reduction improvements on the owner's property.
- The city has determined that improving the stormwater system is not practically feasible or cost effective and the authorized activities will provide savings to the stormwater fund.
- The improvements to the private property are the minimum necessary to achieve the stormwater benefit.
- The funding provided by the city, above a certain amount, to the property owner or expended upon improvements to the property shall be reimbursed to the city if the property is sold within five years of the completion of the flood reduction improvement project.
- The minimum financial contribution the private property owner must make to the flood reduction improvement project.

EFFECTIVE DATE AND APPLICABILITY: House Bill 141 would become effective when it becomes law and would apply only to cities in a county which meets the following criteria: (i) the county has a population of 910,000 or greater according to the most recent annual population estimates certified by the State Budget Officer and (ii) the county has at least one city with a population of 500,000 or greater according to the most recent annual population estimates certified by the State Budget Officer.

O. Walker Reagan
Director

H141-SMSB-9 E1 -V1

Research Division
(919) 733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H 1

HOUSE BILL 576

Short Title:	Amend Environmental Laws - 1.	(Public)
Sponsors:	Representative McElraft (Primary Sponsor). *For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*	
Referred to:	Environment, if favorable, Finance.	

April 6, 2015

A BILL TO BE ENTITLED

AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES LAWS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 130A-309.82 reads as rewritten:

"**§ 130A-309.82. Use of disposal tax proceeds by counties.**

Article 5C of Chapter 105 of the General Statutes imposes a tax on new white goods to provide funds for the management of discarded white goods. A county must use the proceeds of the tax distributed to it under that Article for the management of discarded white ~~goods.~~ goods and electronic devices, as that term is defined in G.S. 130A-309.131. The purposes for which a county may use the tax proceeds include, but are not limited to, the following:

(1) Capital improvements for infrastructure to manage discarded white ~~goods,~~ goods and electronic devices, such as concrete pads for loading, equipment essential for moving white ~~goods,~~ goods and electronic devices, storage sheds for equipment essential to white ~~goods~~ goods and electronic devices disposal management, and freon extraction equipment.

(2) Operating costs associated with managing discarded white ~~goods,~~ goods and electronic devices, such as labor, transportation, and freon extraction.

(3) The cleanup of illegal white ~~goods~~ goods and electronic devices disposal ~~sites, the cleanup of illegal disposal sites consisting of more than fifty percent (50%) discarded white goods, and, as to those illegal disposal sites consisting of fifty percent (50%) or less discarded white goods, the cleanup of the discarded white goods portion of the illegal disposal sites.~~sites.

Except as provided in subdivision (3) of this section, a county may not use the tax proceeds for a capital improvement or operating expense that does not directly relate to the management of discarded white ~~goods.~~ goods or electronic devices. Except as provided in subdivision (3) of this section, if a capital improvement or operating expense is partially related to the management of discarded white ~~goods,~~ goods and electronic devices, a county may use the tax proceeds to finance a percentage of the costs equal to the percentage of the use of the improvement or expense directly related to the management of discarded white ~~goods.~~goods or electronic devices."

SECTION 1.(b) This section becomes effective July 1, 2015.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H D

HOUSE BILL 576
PROPOSED COMMITTEE SUBSTITUTE H576-PCS40413-RIf-7

Short Title: Amend Environmental Laws-2. (Public)

Sponsors:

Referred to:

April 6, 2015

A BILL TO BE ENTITLED

AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES LAWS.

The General Assembly of North Carolina enacts:

PART I. STUDY COMPUTER EQUIPMENT, TELEVISION, AND ELECTRONICS RECYCLING PROGRAM

SECTION 1. The Department of Environment and Natural Resources shall study ways to optimize North Carolina's recycling requirements for discarded computer equipment and televisions. In conducting this study, the Department shall consider (i) the changing waste stream, including the transition from televisions containing cathode ray tubes to flat screen televisions; (ii) the current status of North Carolina's recycling system, including cost and financing issues, and options that may be available to reduce costs and establish sufficient funding to cover necessary costs; (iii) opportunities for more efficient and effective recycling systems; and (iv) any other issue the Department deems relevant. The Department shall report its findings, including specific recommendations for legislative action, to the Environmental Review Commission on or before December 1, 2015.

PART II. EXTEND THE DURATION OF PERMITS FOR SANITARY LANDFILLS AND TRANSFER STATIONS TO A FACILITY'S LIFE-OF-SITE

SECTION 2.(a) G.S. 130A-294 reads as rewritten:

"**§ 130A-294. Solid waste management program.**

(a) The Department is authorized and directed to engage in research, conduct investigations and surveys, make inspections and establish a statewide solid waste management program. In establishing a program, the Department shall have authority to:

...

(4) a. Develop a permit system governing the establishment and operation of solid waste management facilities. A landfill with a disposal area of 1/2 acre or less for the on-site disposal of land clearing and inert debris is exempt from the permit requirement of this section and shall be governed by G.S. 130A-301.1. Demolition debris from the decommissioning of manufacturing buildings, including electric generating stations, that is disposed of on the same site as the decommissioned buildings, is exempt from the permit requirement of this section and rules adopted pursuant to this section and shall be governed by G.S. 130A-301.3. The Department shall not approve an

application for a new permit, ~~the renewal of a permit,~~ major permit modification, or a substantial amendment to a permit for a sanitary landfill, excluding demolition landfills as defined in the rules of the Commission, except as provided in subdivisions (3) and (4) of subsection (b1) of this section. No permit shall be granted for a solid waste management facility having discharges that are point sources until the Department has referred the complete plans and specifications to the Commission and has received advice in writing that the plans and specifications are approved in accordance with the provisions of G.S. 143-215.1. In any case where the Department denies a permit for a solid waste management facility, it shall state in writing the reason for denial and shall also state its estimate of the changes in the applicant's proposed activities or plans that will be required for the applicant to obtain a permit.

...

(a2) Permits for sanitary landfills and transfer stations shall be issued for ~~(i) a design and operation phase of five years or (ii) a design and operation phase of 10 years. A permit issued for a design and operation phase of 10 years shall be subject to a limited review within five years of the issuance date.~~the life-of-site of the facility unless revoked as otherwise provided under this Article or upon the expiration of any local government franchise required for the facility pursuant to subsection (b1) of this section. For purposes of this section, "life-of-site" means the period from the initial receipt of solid waste at the facility until the Department approves final closure of the facility. Permits issued pursuant to this subsection shall take into account the duration of any permits previously issued for the facility and the remaining capacity at the facility.

(a3) Each permit for a sanitary landfill and transfer station shall have a limited review of the permit 10 years after issuance of the initial permit and at 10-year intervals thereafter until expiration of the permit. The limited review includes review of the operational activities at the facility for the preceding time period, as well as future operational plans, financial assurance cost estimates, environmental monitoring plans, closure plans, post-closure plans, and any other applicable plans for the facility. Whenever such review is undertaken, the Department may modify the permit to include additional limitations, standards, or conditions when the technical limitations, standards, or conditions on which the original permit was based have been changed by statute or rule. If, upon such review, the Department finds that repeated material or substantial violations at the sanitary landfill render operation of the facility a danger to human health, safety, and welfare, or the environment, the Department shall modify or revoke the permit. Parties aggrieved by a final decision of the Department pursuant to this subsection may appeal the decision as provided under Article 3 of Chapter 150B of the General Statutes.

(b) The Commission shall adopt and the Department shall enforce rules to implement a comprehensive statewide solid waste management program. The rules shall be consistent with applicable State and federal law; and shall be designed to protect the public health, safety, and welfare; preserve the environment; and provide for the greatest possible conservation of cultural and natural resources. Rules for the establishment, location, operation, maintenance, use, discontinuance, recordation, post-closure care of solid waste management facilities also shall be based upon recognized public health practices and procedures, including applicable epidemiological research and studies; hydrogeological research and studies; sanitary engineering research and studies; and current technological development in equipment and methods. The rules shall not apply to the management of solid waste that is generated by an individual or individual family or household unit on the individual's property and is disposed of on the individual's property.

(b1) (1) For purposes of this subsection and subdivision (4) of subsection (a) of this section, a "substantial amendment" means either:

a. An increase of ten percent (10%) or more in:

1. The population of the geographic area to be served by the sanitary landfill;

2. The quantity of solid waste to be disposed of in the sanitary landfill; or

3. The geographic area to be served by the sanitary landfill.

b. A change in the categories of solid waste to be disposed of in the sanitary landfill or any other change to the application for a permit or to the permit for a sanitary landfill that the Commission or the Department determines to be substantial.

(2) A person who intends to apply for a new permit, ~~the renewal of a permit,~~ major permit modification, or a substantial amendment to a permit for a sanitary landfill shall obtain, prior to applying for a permit, a franchise for the operation of the sanitary landfill from each local government having jurisdiction over any part of the land on which the sanitary landfill and its appurtenances are located or to be located. A local government may adopt a franchise ordinance under G.S. 153A-136 or G.S. 160A-319. A franchise granted for a sanitary landfill shall be granted for the life-of-site of the landfill, and shall include all of the following:

a. A statement of the population to be served, including a description of the geographic area.

b. A description of the volume and characteristics of the waste stream.

c. A projection of the useful life of the sanitary landfill.

d. Repealed by Session Laws 2013-409, s. 8, effective August 23, 2013.

e. The procedures to be followed for governmental oversight and regulation of the fees and rates to be charged by facilities subject to the franchise for waste generated in the jurisdiction of the franchising entity.

f. A facility plan for the sanitary landfill that shall include the boundaries of the proposed facility, proposed development of the facility ~~site in five-year operational phases,~~ site, the boundaries of all waste disposal units, final elevations and capacity of all waste disposal units, the amount of waste to be received per day in tons, the total waste disposal capacity of the sanitary landfill in tons, a description of environmental controls, and a description of any other waste management activities to be conducted at the facility. In addition, the facility plan shall show the proposed location of soil borrow areas, leachate facilities, and all other facilities and infrastructure, including ingress and egress to the facility.

...

(4) An applicant for a new permit, ~~the renewal of a permit,~~ major permit modification, or a substantial amendment to a permit for a sanitary landfill shall request each local government having jurisdiction over any part of the land on which the sanitary landfill and its appurtenances are located or to be located to issue a determination as to whether the local government has in effect a franchise, zoning, subdivision, or land-use planning ordinance applicable to the sanitary landfill and whether the proposed sanitary landfill, or the existing sanitary landfill as it would be operated under the ~~renewed or~~ major permit modification or substantially amended permit, would be

consistent with the applicable ordinances. The request to the local government shall be accompanied by a copy of the permit application and shall be delivered to the clerk of the local government personally or by certified mail. In order to serve as a basis for a determination that an application for a new permit, ~~the renewal of a permit,~~ major permit modification, or a substantial amendment to a permit for a sanitary landfill is consistent with a zoning, subdivision, or land-use planning ordinance, an ordinance or zoning classification applicable to the real property designated in the permit application shall have been in effect not less than 90 days prior to the date the request for a determination of consistency is delivered to the clerk of the local government. The determination shall be verified or supported by affidavit signed by the chief administrative officer, the chief administrative officer's designee, clerk, or other official designated by the local government to make the determination and, if the local government states that the sanitary landfill as it would be operated under the ~~new, renewed,~~ new permit, major permit modification, or substantially amended permit is inconsistent with a franchise, zoning, subdivision, or land-use planning ordinance, shall include a copy of the ordinance and the specific reasons for the determination of inconsistency. A copy of the determination shall be provided to the applicant when the determination is submitted to the Department. The Department shall not act upon an application for a permit under this section until it has received a determination from each local government requested to make a determination by the applicant; provided that if a local government fails to submit a determination to the Department as provided by this subsection within 15 days after receipt of the request, the Department shall proceed to consider the permit application without regard to a franchise, local zoning, subdivision, and land-use planning ordinances. Unless the local government makes a subsequent determination of consistency with all ordinances cited in the determination or the sanitary landfill as it would be operated under the ~~new, renewed,~~ new permit, major permit modification, or substantially amended permit is determined by a court of competent jurisdiction to be consistent with the cited ordinances, the Department shall attach as a condition of the permit a requirement that the applicant, prior to construction or operation of the sanitary landfill under the permit, comply with all lawfully adopted local ordinances cited in the determination that apply to the sanitary landfill. This subsection shall not be construed to affect the validity of any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance or to affect the responsibility of any person to comply with any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance. This subsection shall not be construed to limit any opportunity a local government may have to comment on a permit application under any other law or rule. This subsection shall not apply to any facility with respect to which local ordinances are subject to review under either G.S. 104E-6.2 or G.S. 130A-293.

(5) As used in this subdivision, "coal-fired generating unit" and "investor-owned public utility" have the same meaning as in G.S. 143-215.107D(a). Notwithstanding subdivisions (a)(4), (b1)(3), or (b1)(4) of this section, no franchise shall be required for a sanitary landfill used only to dispose of waste generated by a coal-fired generating unit that is owned or operated by an investor-owned utility subject to the requirements of G.S. 143-215.107D.

...."

SECTION 2.(b) No later than July 1, 2016, the Environmental Management Commission shall adopt rules to allow applicants for permits for sanitary landfills to apply for a permit for the life-of-site of the facility. No later than July 1, 2016, the Commission shall also adopt rules to allow applicants for permits for transfer stations to apply for a permit to construct and operate a transfer station for the life-of-site of the station.

SECTION 2.(c) G.S. 130A-295.8 reads as rewritten:

"**§ 130A-295.8. Fees applicable to permits for solid waste management facilities.**

(a) The Solid Waste Management Account is established as a nonreverting account within the Department. All fees collected under this section shall be credited to the Account and shall be used to support the solid waste management program established pursuant to G.S. 130A-294.

(b) As used in this section:

(1) "Major permit modification" means either of the following:

a. ~~an~~ An application for any change to the approved engineering plans for a sanitary landfill or transfer station permitted for ~~a 10-year~~ life-of-site design capacity that does not constitute a "permit amendment," "new permit," or "permit modification."

b. An application for a permit to be issued pursuant to G.S. 130A-294(a2), which is issued for a duration of less than a facility's life-of-site based upon permits previously issued to a facility.

(1a) "New permit" means any of the following:

a. An application for a permit for a solid waste management facility that has not been previously permitted by the Department. The term includes one site suitability review, the initial permit to construct, and one permit to ~~operate the constructed portion of a phase included in the permit to construct.~~operate.

b. An application that proposes to expand the boundary of a permitted waste management facility for the purpose of expanding the permitted activity.

c. An application that includes a proposed expansion to the boundary of a waste disposal unit within a permitted solid waste management facility.

d. An application for a substantial amendment to a solid waste permit, as defined in G.S. 130A-294.

(2) "Permit amendment" means any of the following:

~~a. An application for a permit to construct and one permit to operate for the second and subsequent phases of landfill development described in the approved facility plan for a permitted solid waste management facility.~~

b. An application for the five-year renewal of a permit for a permitted solid waste management facility or for a permit review of a permitted solid waste management facility. This sub-subdivision shall not apply to sanitary landfills or transfer stations.

c. Any application that proposes a change in ownership or corporate structure of a permitted solid waste management facility. This sub-subdivision shall not apply to sanitary landfills or transfer stations.

(3) "Permit modification" means any of the following:

a. An application for any change to the plans approved in a permit for a solid waste management facility that does not constitute a "permit amendment" or a "new permit". This sub-subdivision shall not apply to sanitary landfills or transfer stations.

~~b. A second or subsequent permit to operate for a constructed portion of a phase included in the permit to construct.~~

c. An application for a ~~five-year limited~~ 10-year review of a ~~10-year~~ life-of-site permit, as required by ~~G.S. 130A-294(a2),~~ G.S. 130A-294(a3), including review of the ~~operations plan,~~ operational activities at the facility for the preceding time period, as well as future operational plans, closure ~~plan, plans,~~ post-closure ~~plan, plans,~~ financial assurance cost estimates, environmental monitoring plans, and any other applicable plans for the facility.

(4) "Ownership modification" means any application that proposes a change in ownership or corporate structure of a permitted sanitary landfill or transfer station.

~~(c) An applicant for a permit shall pay an application fee upon submission of an application according to the following schedule:~~

~~(1) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, New Permit (Five-Year) $25,000.~~

~~(1a) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, New Permit (Ten-Year) $38,500.~~

~~(2) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, Amendment (Five-Year) $15,000.~~

~~(2a) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, Amendment (Ten-Year) $28,500.~~

~~(3) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, Modification (Five-Year) $1,500.~~

~~(3a) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, Major Modification (Ten-Year) $7,500.~~

~~(4) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, New Permit (Five-Year) $50,000.~~

~~(4a) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, New Permit (Ten-Year) $77,000.~~

~~(5) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, Amendment (Five-Year) $30,000.~~

~~(5a) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, Amendment (Ten-Year) $57,000.~~

~~(6) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, Modification (Five-Year) $3,000.~~

~~(6a) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, Major Modification (Ten-Year) $15,000.~~

~~(7) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, New Permit (Five-Year) $15,000.~~

~~(7a) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, New Permit (Ten-Year) $22,500.~~

~~(8) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, Amendment (Five-Year) $9,000.~~

~~(8a) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, Amendment (Ten-Year) $16,500.~~

~~(9) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, Modification (Five-Year) - $1,500.~~
~~(9a) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, Major Modification (Ten-Year) - $4,500.~~
~~(10) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, New Permit (Five-Year) - $30,000.~~
~~(10a) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, New Permit (Ten-Year) - $46,000.~~
~~(11) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, Amendment (Five-Year) - $18,500.~~
~~(11a) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, Amendment (Ten-Year) - $34,500.~~
~~(12) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, Modification (Five-Year) - $2,500.~~
~~(12a) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, Major Modification (Ten-Year) - $9,250.~~
~~(13) Industrial Landfill accepting less than 100,000 tons/year of solid waste, New Permit (Five-Year) - $15,000.~~
~~(13a) Industrial Landfill accepting less than 100,000 tons/year of solid waste, New Permit (Ten-Year) - $22,500.~~
~~(14) Industrial Landfill accepting less than 100,000 tons/year of solid waste, Amendment (Five-Year) - $9,000.~~
~~(14a) Industrial Landfill accepting less than 100,000 tons/year of solid waste, Amendment (Ten-Year) - $16,500.~~
~~(15) Industrial Landfill accepting less than 100,000 tons/year of solid waste, Modification (Five-Year) - $1,500.~~
~~(15a) Industrial Landfill accepting less than 100,000 tons/year of solid waste, Major Modification (Ten-Year) - $4,500.~~
~~(16) Industrial Landfill accepting 100,000 tons/year or more of solid waste, New Permit (Five-Year) - $30,000.~~
~~(16a) Industrial Landfill accepting 100,000 tons/year or more of solid waste, New Permit (Ten-Year) - $46,000.~~
~~(17) Industrial Landfill accepting 100,000 tons/year or more of solid waste, Amendment (Five-Year) - $18,500.~~
~~(17a) Industrial Landfill accepting 100,000 tons/year or more of solid waste, Amendment (Ten-Year) - $34,500.~~
~~(18) Industrial Landfill accepting 100,000 tons/year or more of solid waste, Modification (Five-Year) - $2,500.~~
~~(18a) Industrial Landfill accepting 100,000 tons/year or more of solid waste, Major Modification (Ten-Year) - $9,250.~~
~~(19) Tire Monofill, New Permit - $1,750.~~
~~(19a) Tire Monofill, New Permit (Ten-Year) - $2,500.~~
~~(20) Tire Monofill, Amendment - $1,250.~~
~~(20A) Tire Monofill, Amendment (Ten-Year) - $2,000.~~
~~(21) Tire Monofill, Modification - $500.~~
~~(21A) Tire Monofill, Major Modification - $625.~~
~~(22) Treatment and Processing, New Permit - $1,750.~~
~~(23) Treatment and Processing, Amendment - $1,250.~~
~~(24) Treatment and Processing, Modification - $500.~~
~~(25) Transfer Station, New Permit (Five-Year) - $5,000.~~
~~(25a) Transfer Station, New Permit (Ten-Year) - $7,500.~~

~~(26) Transfer Station, Amendment (Five-Year) – $3,000.~~
~~(26a) Transfer Station, Amendment (Ten-Year) – $5,500.~~
~~(27) Transfer Station, Modification (Five-Year) – $500.~~
~~(27a) Transfer Station, Major Modification (Ten-Year) – $1,500.~~
~~(28) Incinerator, New Permit – $1,750.~~
~~(29) Incinerator, Amendment – $1,250.~~
~~(30) Incinerator, Modification – $500.~~
~~(31) Large Compost Facility, New Permit – $1,750.~~
~~(32) Large Compost Facility, Amendment – $1,250.~~
~~(33) Large Compost Facility, Modification – $500.~~
~~(34) Land Clearing and Inert, New Permit – $1,000.~~
~~(35) Land Clearing and Inert, Amendment – $500.~~
~~(36) Land Clearing and Inert, Modification – $250.~~

(c1) An applicant for a permit shall pay an application fee to the Department. For applications for facilities set forth in subdivisions (1) through (16) and (20) through (23), fifty percent (50%) of the applicable fee shall be paid upon submission of the application, twenty-five percent (25%) shall be paid at 10 years after issuance of the permit, and twenty-five percent (25%) shall be paid at 20 years after issuance of the permit. For applications for facilities set forth in subdivisions (17) through (19) and (24) through (37), the applicable fee shall be paid upon submission of an application. As of July 1, 2016, the base fees for permits for sanitary landfills and transfer stations with a life-of-site duration are applicable upon submission of an application according to the following schedule:

(1) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, New Permit – $25,000.
(2) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, Major Modification – $15,000.
(3) Municipal Solid Waste Landfill accepting 100,000 tons/year or more but less than 250,000 tons/year of solid waste, New Permit – $50,000.
(4) Municipal Solid Waste Landfill accepting 100,000 tons/year or more but less than 250,000 tons/year of solid waste, Major Modification – $30,000.
(5) Municipal Solid Waste Landfill accepting 250,000 tons/year or more of solid waste, New Permit – $75,000.
(6) Municipal Solid Waste Landfill accepting 250,000 tons/year or more of solid waste, Major Modification – $55,000.
(7) Construction and Demolition Landfill accepting less than 25,000 tons/year of solid waste, New Permit – $15,000.
(8) Construction and Demolition Landfill accepting less than 25,000 tons/year of solid waste, Major Modification – $9,000.
(9) Construction and Demolition Landfill accepting 25,000 tons/year or more of solid waste, New Permit – $30,000.
(10) Construction and Demolition Landfill accepting 25,000 tons/year or more of solid waste, Major Modification – $18,500.
(11) Industrial Landfill accepting less than 100,000 tons/year of solid waste, New Permit – $15,000.
(12) Industrial Landfill accepting less than 100,000 tons/year of solid waste, Major Modification – $9,000.
(13) Industrial Landfill accepting 100,000 tons/year or more of solid waste, New Permit – $30,000.
(14) Industrial Landfill accepting 100,000 tons/year or more of solid waste, Major Modification – $18,500.
(15) Tire Monofill, New Permit – $15,000.

(16) Tire Monofill, Major Modification – $9,000.
(17) Treatment and Processing, New Permit – $1,750.
(18) Treatment and Processing, Amendment – $1,250.
(19) Treatment and Processing, Modification – $500.
(20) Transfer Station accepting less than 25,000 tons/year of solid waste, New Permit – $2,500.
(21) Transfer Station accepting less than 25,000 tons/year of solid waste, Major Modification – $1,500.
(22) Transfer Station accepting 25,000 tons/year or more of solid waste, New Permit – $5,000.
(23) Transfer Station accepting 25,000 tons/year or more of solid waste, Major Modification – $3,000.
(24) Incinerator, New Permit – $1,750.
(25) Incinerator, Amendment – $1,250.
(26) Incinerator, Modification – $500.
(27) Large Compost Facility, New Permit – $1,750.
(28) Large Compost Facility, Amendment – $1,250.
(29) Large Compost Facility, Modification – $500.
(30) Land Clearing and Inert, New Permit – $1,000.
(31) Land Clearing and Inert, Amendment – $500.
(32) Land Clearing and Inert, Modification – $250.
(33) Municipal Solid Waste Landfill, Ownership Modification – $5,000.
(34) Construction and Demolition Waste Landfill, Ownership Modification – $3,000.
(35) Industrial Landfill, Ownership Modification – $2,000.
(36) Tire Monofill, Ownership Modification – $2,000.
(37) Transfer Station, Ownership Modification – $1,000.

(c2) After July 1, 2016, facilities for which permits are issued for a period of less than a landfill's life-of-site, based on the duration of all design and operation permits previously issued for the facility, shall pay a proportional amount of the base fee as set forth in subsection (c1) of this section, prorated in accordance with the duration of the permit issued after that date. For facilities subject to this subdivision that submit applications for a permit to be issued pursuant to G.S. 130A-294(a2) for facilities set forth in subdivisions (1) through (16) and (20) through (23) of subsection (c1) of this section, the applicable fee shall be paid as follows: (i) fifty percent (50%) of the applicable fee shall be paid upon submission of the application; (ii) twenty-five percent (25%) shall be paid 10 years after issuance of the permit; and (iii) twenty-five percent (25%) shall be paid at 20 years after issuance of the permit. If the permit issued is for less than 15 years, based on the duration of all design and operation permits previously issued for the facility, the fee shall be paid at other periodic intervals as the Department may require. For applications for facilities set forth in subdivisions (17) through (19) and (24) through (37) of subsection (c1) of this section, the applicable fee shall be paid upon submission of an application. The Department shall adopt rules to implement this subsection.

~~(d) A permitted solid waste management facility shall pay an annual permit fee on or before 1 August of each year according to the following schedule:~~
~~(1) Municipal Solid Waste Landfill – $3,500.~~
~~(2) Post-Closure Municipal Solid Waste Landfill – $1,000.~~
~~(3) Construction and Demolition Landfill – $2,750.~~
~~(4) Post-Closure Construction and Demolition Landfill – $500.~~
~~(5) Industrial Landfill – $2,750.~~
~~(6) Post-Closure Industrial Landfill – $500.~~

~~(7) Transfer Station – $750.~~
~~(8) Treatment and Processing Facility – $500.~~
~~(9) Tire Monofill – $500.~~
~~(10) Incinerator – $500.~~
~~(11) Large Compost Facility – $500.~~
~~(12) Land Clearing and Inert Debris Landfill – $500.~~

(d1) A permitted solid waste management facility shall pay an annual permit fee on or before August 1 of each year according to the following schedule:

(1) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste – $7,500.
(2) Municipal Solid Waste Landfill accepting 100,000 tons/year or more but less than 250,000 tons/year of solid waste – $12,000.
(3) Municipal Solid Waste Landfill accepting 250,000 tons/year or more of solid waste – $15,000.
(4) Post-Closure Municipal Solid Waste Landfill – $1,000.
(5) Construction and Demolition Landfill accepting less than 25,000 tons/year of solid waste – $5,500.
(6) Construction and Demolition Landfill accepting 25,000 tons/year or more of solid waste – $8,500.
(7) Post-Closure Construction and Demolition Landfill – $500.
(8) Industrial Landfill accepting less than 100,000 tons/year of solid waste – $5,500.
(9) Industrial Landfill accepting 100,000 tons/year or more of solid waste – $10,000.
(10) Post-Closure Industrial Landfill – $500.
(11) Transfer Station accepting less than 25,000 tons/year of solid waste – $750.
(12) Transfer Station accepting 25,000 tons/year or more of solid waste – $1,500.
(13) Treatment and Processing Facility – $500.
(14) Tire Monofill – $5,500.
(15) Incinerator – $500.
(16) Large Compost Facility – $500.
(17) Land Clearing and Inert Debris Landfill – $500.

…."

SECTION 2.(d) G.S. 130A-295.3 reads as rewritten:

"**§ 130A-295.3. Environmental compliance review requirements for applicants and permit holders.**

…

(b) The Department shall conduct an environmental compliance review of each applicant for a new ~~permit, permit renewal,~~ permit and permit amendment under this Article. The environmental compliance review shall evaluate the environmental compliance history of the applicant for a period of five years prior to the date of the application and may cover a longer period at the discretion of the Department. The environmental compliance review of an applicant may include consideration of the environmental compliance history of the parents, subsidiaries, or other affiliates of an applicant or parent that is a business entity, including any business entity or joint venturer with a direct or indirect interest in the applicant, and other facilities owned or operated by any of them. The Department shall determine the scope of the review of the environmental compliance history of the applicant, parents, subsidiaries, or other affiliates of the applicant or parent, including any business entity or joint venturer with a direct or indirect interest in the applicant, and of other facilities owned or operated by any of them. An applicant for a permit shall provide environmental compliance history information for each facility, business entity, joint venture, or other undertaking in which any of the persons listed in

this subsection is or has been an owner, operator, officer, director, manager, member, or partner, or in which any of the persons listed in this subsection has had a direct or indirect interest as requested by the Department.

...."

SECTION 2.(e) G.S. 130A-294(b1)(2) applies to franchise agreements executed on or after August 1, 2015. The remainder of this section becomes effective on August 1, 2015, except that G.S. 130A-294, as amended by Section 2(a) of this act, and G.S. 130A-295.8, as amended by Section 2(c) of this act, apply to (i) existing sanitary landfills and transfer stations, with a valid permit issued before the date this act becomes effective, when that permit is next subject to renewal after July 1, 2016, and (ii) new sanitary landfills and transfer stations, for applications submitted on or after July 1, 2016.

PART III. SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 3. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

SECTION 4. Except as otherwise provided, this act is effective when it becomes law.

HOUSE BILL 576:
Amend Environmental Laws - 1

2015-2016 General Assembly

Committee:	House Environment, if favorable, Finance	**Date:**	April 21, 2015
Introduced by:	Rep. McElraft	**Prepared by:**	Jennifer McGinnis Committee Counsel
Analysis of:	PCS to First Edition H576-PCS40413-RIf-7		

SUMMARY: ***The Proposed Committee Substitute for House Bill 576 would: (1) direct the Department of Environment and Natural Resources (DENR) to study ways to optimize North Carolina's recycling requirements for discarded computer equipment and televisions, and (2) extend the duration of permits for sanitary landfills and transfer stations to a facility's life-of-site.***

BILL ANALYSIS:

Section 1 of the PCS would direct DENR to study ways to optimize North Carolina's recycling requirements for discarded computer equipment and televisions, and report its findings, including specific recommendations for legislative action, to the Environmental Review Commission on or before December 1, 2015. In its study, DENR would be required to consider (i) the changing waste stream, including the transition from televisions containing cathode ray tubes to flat screen televisions; (ii) the current status of North Carolina's recycling system, including cost and financing issues, and options that may be available to reduce costs and establish sufficient funding to cover necessary costs; (iii) opportunities for more efficient and effective recycling systems; and (iv) any other issue the Department deems relevant.

Section 2.(a) of the PCS would extend the duration of permits for sanitary landfills and transfer stations to a facility's life-of-site (from the current option for a 5- or 10-year permit), unless revoked as otherwise provided under the statutes governing solid waste management or upon the expiration of any local government franchise required for the facility. The PCS defines "life-of-site" to mean the period from the initial receipt of solid waste at the facility until DENR approves final closure of the facility.

A limited review of the permit would be required ten years after issuance of the initial permit, and at ten-year intervals thereafter until expiration. The PCS provides that the limited review includes examination of the operational activities at the facility for the preceding time period, as well as future operational plans, financial assurance cost estimates, environmental monitoring plans, closure plans, post-closure plans, and any other applicable plans for the facility. This provision would be applicable to new facilities for which permit applications were submitted on or after July 1, 2016, and to existing facilities when the associated permits next come up for renewal after July 1, 2016.

Current law requires that persons who apply for a permit for a sanitary landfill obtain, prior to application, a franchise from each local government having jurisdiction over any part of the land on which the facility is to be located. The PCS would modify the law governing franchise agreements to provide that these agreements must be granted for the life-of-site of the facility. This provision would be applicable to franchise agreements executed on or after August 1, 2015.

Section 2.(b) of the PCS would require the Environmental Management Commission, by July 1, 2016, to adopt rules to allow applicants for sanitary landfills and transfer stations to apply for permits to construct and operate for the life-of-site of a facility.

Section 2.(c) of the PCS would increase the fees applicable to new sanitary landfills and transfer stations permitted on or after July 1, 2016 to reflect the extension of the duration of permits for these facilities to their life-of-site. The provision also deletes or amends a number of definitions associated with the fees.

Section 2.(d) of the PCS would make conforming changes to the statutes governing solid waste management to reflect extension of the duration of permits to reflect a facility's life-of-site.

Section 2.(e) includes specific effective dates for the provisions of the PCS that pertain to extension of the duration of permits to reflect a facility's life-of-site.

Section 3 contains a severability clause for the act.

Section 4 of the PCS would provide that the preceding sections would become effective August 1, 2015, except as otherwise provided.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 576

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H576-ARI-10 [v.1]

Amends Title [NO]
H576-PCS40413-RIf-7

Date _____,2015

Representative Harrison

moves to amend the bill on page 2, line 27,
by rewriting that line to read:

"the permit 5 years after issuance of the initial permit and at 5-year intervals thereafter until";

and on page 6, line 7,
by rewriting that line to read:

"c. An application for a five-year limited review of a ~~10-year~~".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

HOUSE BILL 593

Short Title:	Amend Environmental Laws - 2.	(Public)
Sponsors:	Representative McElraft (Primary Sponsor). *For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*	
Referred to:	Environment, if favorable, Judiciary I.	

April 6, 2015

A BILL TO BE ENTITLED

AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES LAWS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 143-215.94V(e) reads as rewritten:

"(e) If the Commission concludes under subsection (d) of this section that no cleanup, no further cleanup, or no further action will be required, the Department shall not pay or reimburse any costs otherwise payable or reimbursable under this Article from either the Commercial or Noncommercial Fund, other than reasonable and necessary to conduct the risk assessment required by this section, unless:

(1) Cleanup is ordered or damages are awarded in a finally adjudicated judgment in an action against the owner or landowner. To be eligible for reimbursement of damages arising from a third-party claim for bodily injury or property awarded in a finally adjudicated judgment, however, an owner or operator shall (i) notify the Department of any such claim; (ii) provide the Department with all pleadings and other related documents if a lawsuit has been filed; and (iii) provide the Department copies of any medical reports, statements, investigative reports, or certifications from licensed professionals necessary to determine that a claim for bodily injury or property damage is reasonable and necessary. Reimbursement of claims for damages arising from a third-party claim for bodily injury or property awarded in a finally adjudicated judgment shall be subject to the limitations set forth in G.S. 143-215.94B(b)(5) and G.S. 143-215.94D(b1)(2), as applicable, and any other provision governing third-party claims set forth in this Article.

...."

SECTION 1.(b) G.S. 143-215.94A is amended by adding three new subdivisions to read:

"**§ 143-215.94A. Definitions.**

Unless a different meaning is required by the context, the following definitions shall apply throughout this Part and Part 2B of this Article:

...

(12) "Third party" means a person other than the owner or operator of an underground storage tank from which a release has occurred, or employees or agents of an owner or operator. A property owner shall not be considered

a third party if the property was transferred by the owner or operator of an underground storage tank in anticipation of damage due to a release.

(13) "Third-party bodily injury" or "bodily injury" when used in connection with "third-party" means specific physical bodily injury proximately resulting from exposure, explosion, or fire caused by the presence of a petroleum release and that is incurred by a person other than the owner or operator of an underground storage tank from which a release has occurred, or employees or agents of an owner or operator.

(14) "Third-party property damage" or "property damage" when used in connection with "third-party" means actual physical damage or damage due to specific loss of normal use that proximately resulted from exposure, explosion, or fire caused by the presence of a petroleum release and that is incurred to property owned by a person other than the owner or operator of an underground storage tank from which a release has occurred, or employees or agents of an owner or operator."

SECTION 1.(c) G.S. 143-215.94B reads as rewritten:

"**§ 143-215.94B. Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund.**

(a) There is established under the control and direction of the Department the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund. This Commercial Fund shall be a nonreverting revolving fund consisting of any monies appropriated for such purpose by the General Assembly or available to it from grants, other monies paid to it or recovered on behalf of the Commercial Fund, and fees paid pursuant to this Part.

(b) The Commercial Fund shall be used for the payment of the following costs up to an aggregate maximum of one million dollars ($1,000,000) per occurrence resulting from a discharge or release of a petroleum product from a commercial underground storage tank:

...

(5) Compensation to third parties for bodily injury and property damage in excess of one hundred thousand dollars ($100,000) per occurrence. Claims for third-party property damage shall be based on the rental costs of comparable property during the period of loss of use up to a maximum amount equal to the fair market value. In the case of property that is actually destroyed as a result of a petroleum release, reimbursement shall be at an amount necessary to replace or repair the destroyed property.

...."

SECTION 1.(d) G.S. 143-215.94D reads as rewritten:

"**§ 143-215.94D. Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund.**

(a) There is established under the control and direction of the Department the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund. This Noncommercial Fund shall be a nonreverting revolving fund consisting of any monies appropriated for such purpose by the General Assembly or available to it from grants, or other monies paid to it or recovered on behalf of the Noncommercial Fund.

...

(b1) The Noncommercial Fund shall be used for the payment of the costs of:

(1) For releases discovered or reported to the Department prior to August 1, 2013, the cleanup of environmental damage as required by G.S. 143-215.94E(a).

(1a) For releases discovered or reported to the Department on or after August 1, 2013, the cleanup of environmental damage as required by

G.S.143-215.94E(a) in excess of two thousand dollars ($2,000) or the sum of the following amounts, whichever is less:

a. A deductible of one thousand dollars ($1,000) per occurrence.

b. A co-payment equal to ten percent (10%) of the costs of the cleanup of environmental damage, per occurrence.

(2) Compensation to third parties for bodily injury and property damage in excess of one hundred thousand dollars ($100,000) per occurrence. Claims for third-party property damage shall be based on the rental costs of comparable property during the period of loss of use up to a maximum amount equal to the fair market value. In the case of property that is actually destroyed as a result of a petroleum release, reimbursement shall be at an amount necessary to replace or repair the destroyed property.

...."

SECTION 1.(e) This act is effective when it becomes law and applies to claims for reimbursement submitted on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H D

HOUSE BILL 593
PROPOSED COMMITTEE SUBSTITUTE H593-PCS40414-SB-5

Short Title: Amend Environmental Laws-3. (Public)

Sponsors:

Referred to:

April 6, 2015

A BILL TO BE ENTITLED

AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES LAWS.

The General Assembly of North Carolina enacts:

CLARIFY REIMBURSEMENT OF THIRD-PARTY CLAIMS FROM THE COMMERCIAL AND NONCOMMERCIAL LEAKING PETROLEUM UNDERGROUND STORAGE TANK CLEANUP FUNDS

SECTION 1.(a) G.S. 143-215.94V(e) reads as rewritten:

"(e) If the Commission concludes under subsection (d) of this section that no cleanup, no further cleanup, or no further action will be required, the Department shall not pay or reimburse any costs otherwise payable or reimbursable under this Article from either the Commercial or Noncommercial Fund, other than reasonable and necessary to conduct the risk assessment required by this section, unless:

(1) Cleanup is ordered or damages are awarded in a finally adjudicated judgment in an action against the owner or landowner. To be eligible for reimbursement of damages arising from a third-party claim for bodily injury or property damage awarded in a finally adjudicated judgment, however, an owner or operator shall (i) notify the Department of any such claim; (ii) provide the Department with all pleadings and other related documents if a lawsuit has been filed; and (iii) provide the Department copies of any medical reports, statements, investigative reports, or certifications from licensed professionals necessary to determine that a claim for bodily injury or property damage is reasonable and necessary. Reimbursement of claims for damages arising from a third-party claim for bodily injury or property damage awarded in a finally adjudicated judgment shall be subject to the limitations set forth in G.S. 143-215.94B(b)(5) and G.S. 143-215.94D(b1)(2), as applicable, and any other provision governing third-party claims set forth in this Article.

...."

SECTION 1.(b) G.S. 143-215.94A is amended by adding three new subdivisions to read:

"**§ 143-215.94A. Definitions.**

Unless a different meaning is required by the context, the following definitions shall apply throughout this Part and Part 2B of this Article:

...

(12) "Third party" means a person other than the owner or operator of an underground storage tank from which a release has occurred, or employees or agents of an owner or operator. A property owner shall not be considered a third party if the property was transferred by the owner or operator of an underground storage tank in anticipation of damage due to a release.

(13) "Third-party bodily injury" or "bodily injury" when used in connection with "third-party" means specific physical bodily injury proximately resulting from exposure, explosion, or fire caused by the presence of a petroleum release and that is incurred by a person other than the owner or operator of an underground storage tank from which a release has occurred, or employees or agents of an owner or operator.

(14) "Third-party property damage" or "property damage" when used in connection with "third-party" means actual physical damage or damage due to specific loss of normal use that proximately resulted from exposure, explosion, or fire caused by the presence of a petroleum release and that is incurred to property owned by a person other than the owner or operator of an underground storage tank from which a release has occurred, or employees or agents of an owner or operator."

SECTION 1.(c) G.S. 143-215.94B reads as rewritten:

"**§ 143-215.94B. Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund.**

(a) There is established under the control and direction of the Department the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund. This Commercial Fund shall be a nonreverting revolving fund consisting of any monies appropriated for such purpose by the General Assembly or available to it from grants, other monies paid to it or recovered on behalf of the Commercial Fund, and fees paid pursuant to this Part.

(b) The Commercial Fund shall be used for the payment of the following costs up to an aggregate maximum of one million dollars ($1,000,000) per occurrence resulting from a discharge or release of a petroleum product from a commercial underground storage tank:

...

(5) Compensation to third parties for bodily injury and property damage in excess of one hundred thousand dollars ($100,000) per occurrence. Claims for third-party property damage shall be based on the rental costs of comparable property during the period of loss of use up to a maximum amount equal to the fair market value. In the case of property that is actually destroyed as a result of a petroleum release, reimbursement shall be at an amount necessary to replace or repair the destroyed property.

...."

SECTION 1.(d) G.S. 143-215.94D reads as rewritten:

"**§ 143-215.94D. Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund.**

(a) There is established under the control and direction of the Department the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund. This Noncommercial Fund shall be a nonreverting revolving fund consisting of any monies appropriated for such purpose by the General Assembly or available to it from grants, or other monies paid to it or recovered on behalf of the Noncommercial Fund.

...

(b1) The Noncommercial Fund shall be used for the payment of the costs of:

(1) For releases discovered or reported to the Department prior to August 1, 2013, the cleanup of environmental damage as required by G.S. 143-215.94E(a).

(1a) For releases discovered or reported to the Department on or after August 1, 2013, the cleanup of environmental damage as required by G.S.143-215.94E(a) in excess of two thousand dollars ($2,000) or the sum of the following amounts, whichever is less:
a. A deductible of one thousand dollars ($1,000) per occurrence.
b. A co-payment equal to ten percent (10%) of the costs of the cleanup of environmental damage, per occurrence.

(2) Compensation to third parties for bodily injury and property damage in excess of one hundred thousand dollars ($100,000) per occurrence. Claims for third-party property damage shall be based on the rental costs of comparable property during the period of loss of use up to a maximum amount equal to the fair market value. In the case of property that is actually destroyed as a result of a petroleum release, reimbursement shall be at an amount necessary to replace or repair the destroyed property.

...."

SECTION 1.(e) This section is effective when it becomes law and applies to claims for reimbursement pending or submitted on or after that date.

EXEMPT CERTAIN WETLANDS MITIGATION ACTIVITIES FROM REQUIREMENTS UNDER THE SEDIMENTATION POLLUTION CONTROL ACT

SECTION 2. G.S. 113A-52.01 reads as rewritten:

"**§ 113A-52.01. Applicability of this Article.**

This Article shall not apply to the following land-disturbing activities:

(1) Activities, including the breeding and grazing of livestock, undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:
a. Forages and sod crops, grains and feed crops, tobacco, cotton, and peanuts.
b. Dairy animals and dairy products.
c. Poultry and poultry products.
d. Livestock, including beef cattle, llamas, sheep, swine, horses, ponies, mules, and goats.
e. Bees and apiary products.
f. Fur producing animals.

(2) Activities undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with best management practices set out in Forest Practice Guidelines Related to Water Quality, as adopted by the Department.

(3) Activities for which a permit is required under the Mining Act of 1971, Article 7 of Chapter 74 of the General Statutes.

(4) For the duration of an emergency, activities essential to protect human life, including activities specified in an executive order issued under G.S. 166A-19.30(a)(5).

(5) Activities undertaken pursuant to Natural Resources Conservation Service standards to restore the wetlands functions of converted wetlands as defined in 7 Code of Federal Regulations § 12.2 (January 1, 2014 Edition)."

MODIFY IMPLEMENTATION OF THE ODOR CONTROL OF FEED INGREDIENT MANUFACTURING PLANTS RULE

SECTION 3.(a) Definitions. – "Odor Control of Feed Ingredient Manufacturing Plants Rule" means 15A NCAC 02D .0539 (Odor Control of Feed Ingredient Manufacturing Plants) for purposes of this section and its implementation.

SECTION 3.(b) Odor Control of Feed Ingredient Manufacturing Plants Rule. – Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to subsection (d) of this section, the Commission and the Department of Environment and Natural Resources shall implement the Odor Control of Feed Ingredient Manufacturing Plants Rule, as provided in subsection (c) of this section.

SECTION 3.(c) Implementation. – Notwithstanding the Odor Control of Feed Ingredient Manufacturing Plants Rule, the Commission shall implement the rule as follows:

(1) Raw material shall be considered in "storage" after it has been unloaded at a facility or after it has been located at the facility for at least 36 hours.

(2) A vehicle or container holding raw material, which has not been unloaded inside or parked inside an odor controlled area within the facility, shall be unloaded for processing of the raw material prior to the expiration of the following time limits:

a. For feathers with only trace amounts of blood, such as those obtained from slaughtering houses that separate blood from offal and feathers, no later than 48 hours after being weighed upon arrival at the facility.

b. For used cooking oil in sealed tankers, no later than 96 hours after being weighed upon arrival at the facility.

SECTION 3.(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to replace the Odor Control of Feed Ingredient Manufacturing Plants Rule. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 3.(e) Effective Date. – Subsection (c) of this section expires when permanent rules to replace subsection (c) of this section have become effective, as provided by subsection (d) of this section.

PROHIBIT THE REQUIREMENT OF MITIGATION FOR IMPACTS TO INTERMITTENT STREAMS

SECTION 4.(a) Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-214.7C. Prohibit the requirement of mitigation for impacts to intermittent streams.**

Except as required by federal law and notwithstanding any other provision of State law, the Department of Environment and Natural Resources shall not require mitigation for impacts to an intermittent stream. For purposes of this section, "intermittent stream" means a well-defined channel that has all of the following characteristics:

(1) It contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table.

(2) The flow of water in the intermittent stream may be heavily supplemented by stormwater runoff.

(3) It often lacks the biological and hydrological characteristics commonly associated with the conveyance of water."

SECTION 4.(b) The Department of Environment and Natural Resources and the Environmental Management Commission shall amend their rules so that the rules are consistent with the provisions of G.S. 143-214.7C, as enacted by subsection (a) of this section.

DIRECT THE NORTH CAROLINA FOREST SERVICE TO STUDY DANGERS AND RISKS FOR THE STATE'S FORESTS RESULTING FROM IMPORTATION OF FIREWOOD FROM OTHER STATES

SECTION 5. In order to ensure the protection, preservation, and sustainability of the State's forest resources, the North Carolina Forest Service of the Department of Agriculture and Consumer Services shall study: (i) dangers and risks associated with importation of firewood from other states including the threat of infestation from nonnative invasive species, pests, and disease, such as the emerald ash borer, Asian longhorned beetle, and thousand cankers disease; (ii) impacts from such pests and disease on the State's forests, including the costs to address impacts, as well as impacts on tourism and the wood product industry; (iii) regulations in effect in other states addressing dangers associated with importation of firewood; (iv) restrictions that may be advisable to protect the State's forests from invasive species, pests, and disease; and (v) any other issue the Service deems relevant. In conducting this study, the Service shall, at a minimum, consult with stakeholders including members of the Western North Carolina Public Lands Council, entomologists, and private foresters and landowners. The Service shall report its findings, including specific recommendations for legislative action, to the Environmental Review Commission on or before December 1, 2015.

CREATE STREAMLINED PROCESS FOR ON-SITE WASTEWATER SYSTEM APPROVAL

SECTION 6.(a) The Department of Health and Human Services, Division of Public Health, On-Site Water Protection Branch, shall engage with stakeholders representing the private wastewater system industry to cooperatively develop streamlined and uniform approval processes for new technologies that are introduced for use in on-site wastewater treatment and dispersal systems in this State. The On-Site Water Protection Branch and the industry stakeholders together shall identify and suggest amendments to G.S. 130A-343 (Approval of on-site subsurface wastewater systems) that are necessary to achieve and implement such a streamlined uniform approval process.

SECTION 6.(b) The Department of Health and Human Services shall report its findings and recommended amendments to G.S. 130A-343 to the Environmental Review Commission and the Joint Legislative Oversight Committee on Health and Human Services on or before February 1, 2016.

SECTION 6.(c) This section shall in no way supersede or nullify the on-site wastewater approval clarifications with respect to certain dispersal media under G.S. 130-343(j1).

EFFECTIVE DATE

SECTION 7. Except as otherwise provided, this act is effective when it becomes law.

HOUSE BILL 593:
Amend Environmental Laws - 3

2015-2016 General Assembly

Committee:	House Environment, if favorable, Judiciary I	**Date:**	April 21, 2015
Introduced by:	Rep. McElraft	**Prepared by:**	Jennifer McGinnis
Analysis of:	PCS to First Edition H593-PCS40414-SB-5		Committee Counsel

SUMMARY: ***The Proposed Committee Substitute (PCS) for House Bill 593 would: clarify reimbursement eligibility for third-party claims from the Commercial or Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Funds; exempt certain wetlands mitigation activities from Sedimentation Pollution Control Act requirements; modify implementation of the Odor Control of Feed Ingredient Manufacturing Plants Rule; prohibit the requirement of mitigation for impacts to intermittent streams; direct the North Carolina Forest Service to study the dangers and risks to the State's forests resulting from the importation of firewood from other states; and direct the Department of Health and Human Services to create a streamlined and uniform process for approving new technologies for on-site wastewater treatment and dispersal.***

BILL ANALYSIS:

Section 1: The statutes currently allow the Commercial or Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Funds to be used for payment of compensation to third parties for bodily injury and property damage in excess of $100,000 per occurrence, but there is little other guidance provided. There is, however a rule with more guidance, 15A NCAC 02P .0403, which provides:

- The term "third party bodily injury" means specific physical bodily injury proximately resulting from exposure, explosion, or fire caused by the presence of a petroleum release and which is incurred by a person other than the owner or operator, or employees or agents of an owner or operator.
- The term "third party property damage" means actual physical damage or damage due to specific loss of normal use of property owned by a person other than the owner or operator of an underground storage tank from which a release has occurred.

The PCS would incorporate the limitations of the rule into the statutes, and make other conforming changes. These changes would be effective for claims for reimbursement pending, or submitted on or after that date.

Section 2: Under current law, sedimentation and erosion control plans approved by the Department of Environment and Natural Resources (DENR) or a local government are required for land-disturbing activities that affect more than 1 acre of land. There are several exemptions from these requirements, including activities related to agriculture and forestry. The PCS would also exempt certain wetlands restoration activities.

Section 3: 15A NCAC 02D .0539 (Odor Control of Feed Ingredient Manufacturing Plants Rule) requires that various odor control measures be implemented at any facility that produces feed-grade animal proteins or feed-grade animal fats and oils. The Rule specifically provides that a person at such

facilities shall not cause or permit any raw material to be handled, transported, or stored, or to undertake the preparation of any raw material without taking reasonable precautions to prevent odors from being discharged. For the purpose of the Rule, raw material is considered in storage after it has been unloaded at a facility or after it has been located at the facility for at least 24 hours.

The PCS would modify the implementation of the Rule to provide that:

- Raw material is considered in storage after it has been unloaded at a facility or after it has been located at the facility for at least 36 hours.
- A vehicle or container holding raw material, which has not been unloaded inside or parked inside an odor controlled area within the facility, must be unloaded for processing of the raw material prior to the expiration of the following time limits:
    - For feathers with only trace amounts of blood, such as those obtained from slaughtering houses that separate blood from offal and feathers, no later than 48 hours after being weighed upon arrival at the facility.
    - For used cooking oil in sealed tankers, no later than 96 hours after being weighed upon arrival at the facility.

Section 4: would provide that, except as required by federal law and notwithstanding any other provision of State law, DENR may not require mitigation for impacts to intermittent streams. An intermittent stream is a well-defined channel that has all of the following characteristics:

- It contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table.
- The flow of water in the intermittent stream may be heavily supplemented by stormwater runoff.
- It often lacks the biological and hydrological characteristics commonly associated with the conveyance of water.

Section 5: would direct the North Carolina Forest Service (Service) to study the dangers and risks to the State's forests resulting from the importation of firewood from other states, including the threat of infestation from invasive species, pests, and disease. In addition, the Service is directed to examine restrictions that may be advisable to protect the State's forests from any risks identified, and consult with stakeholders in its study, including members of the Western North Carolina Public Lands Council, entomologists, and private foresters and landowners. The Service would be required to report its findings, including specific recommendations for legislative action, to the Environmental Review Commission (ERC) on or before December 1, 2015.

Section 6: would direct the On-Site Water Protection Branch (Branch) in the Division of Public Health of the Department of Health and Human Services to engage with stakeholders representing the wastewater system industry to develop streamlined and uniform approval processes for new technologies that are introduced for use in on-site wastewater treatment and dispersal in this State. This section would require the Branch and the stakeholders to suggest amendments to G.S. 130A-343, the current law that governs the approval of on-site subsurface wastewater systems. Findings and recommendations must be reported by DHHS to the ERC and the Joint Legislative Oversight Committee on Health and Human Services on or before February 1, 2016.

EFFECTIVE DATE: Except as otherwise provided, this act would become effective when it becomes law.

HOUSE BILL 538
Committee Substitute Favorable 4/16/15

Short Title: Clarify Water and Sewer Authority Powers. (Public)

Sponsors:

Referred to:

April 6, 2015

A BILL TO BE ENTITLED

AN ACT TO AMEND AND CLARIFY THE POWERS OF WATER AND SEWER AUTHORITIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 162A-6(a)(14c) reads as rewritten:

"(14c) To adopt ordinances concerning any of the following:

a. ~~to regulate~~ The regulation and control of the discharge of sewage or stormwater into any sewerage system owned or operated by the ~~authority, to adopt ordinances concerning stormwater~~ authority.

b. The regulation and control of a water system owned or operated by the authority.

c. Stormwater management programs designed to protect water quality by controlling the level of pollutants in and the quantity and flow of ~~stormwater, and to adopt ordinances to regulate~~ stormwater.

d. The regulation and control of structural and natural stormwater and drainage systems of all types.

Prior to the adoption of any such ordinance or any amendment to any such ordinance, the authority shall first pass a declaration of intent to adopt such ordinance or amendment. The declaration of intent shall describe the ordinance which it is proposed that the authority adopt. The declaration of intent shall be submitted to each governing body for review and comment. The authority shall consider any comment or suggestions offered by any governing body with respect to the proposed ordinance or amendment. Thereafter, the authority shall be authorized to adopt such ordinance or amendment to it at any time after 60 days following the submission of the declaration of intent to each governing body."

SECTION 2. G.S. 162A-6(a) is amended by adding two new subdivisions to read:

"(17) To enter into reimbursement agreements with private developers and property owners for the design and construction of infrastructure that is included on the authority's capital improvement plan and serves the developer or property owner. An authority shall enact ordinances setting forth procedures and terms under which such agreements may be approved. An authority may provide for such reimbursements to be paid from any lawful source. Reimbursement agreements authorized by this paragraph shall not be subject to Article 8 of Chapter 143 of the General Statutes, except as provided by this subsection. A developer or property owner who is party to a

reimbursement agreement authorized under this paragraph shall solicit bids in accordance with Article 8 of Chapter 143 of the General Statutes when awarding contracts for work that would have required competitive bidding if the contract had been awarded by the authority. For the purpose of this subdivision, infrastructure includes, without limitation, water mains, sanitary sewer lines, lift stations, water pump stations, stormwater lines, and other associated facilities.

(18) To offer and pay rewards in an amount not exceeding five thousand dollars ($5,000) for information leading to the arrest and conviction of any person who willfully defaces, damages or destroys, or commits acts of vandalism or larceny of any authority property. The amount necessary to pay said rewards shall be an item in the current expense budget of the authority."

SECTION 3. This act is effective when it becomes law.

HOUSE BILL 538:
Clarify Water and Sewer Authority Powers

2015-2016 General Assembly

Committee:	House Environment	**Date:**	April 21, 2015
Introduced by:	Rep. Millis	**Prepared by:**	Jeff Hudson Committee Counsel
Analysis of:	Second Edition		

SUMMARY: House Bill 538 would specifically authorize water and sewer authorities created under Article 1 of Chapter 162A to:

- ***Adopt ordinances concerning the regulation and control of water systems owned by the authority.***
- ***Enter into reimbursement agreements with property owners for design and construction of infrastructure.***
- ***Offer and pay rewards up to $5,000 for information leading to conviction of persons who willfully deface, damage, or destroy, or commits acts of vandalism or larceny of, authority property.***

CURRENT LAW:

There are several different mechanisms a county and city can use to address water and sewer concerns. One such mechanism is the creation of a water and sewer authority. One or more counties, cities, sanitary districts, or any other political subdivision may create water and sewer authorities. The governing body of each political subdivision must adopt a resolution stating its intent to organize an authority. The resolution must be adopted after a public hearing is held on the issue and notice of the public hearing must be published. A political subdivision can withdraw from an authority at any time prior to the creation of any obligations by the authority.

Generally upon creation, each of the entities has a governing board appointed by the units of local government involved in the operation of the system, with specific authority to set rates and fees, power to sue and be sued, and authority to contract in the name of the entity, amongst other powers and duties. Additionally, a water and sewer authority may issue revenue bonds; impose rates, fees, and charges; and levy special assessments.

BILL ANALYSIS:

Section 1 would authorize a water and sewer authority to adopt an ordinance concerning the regulation and control of a water system owned or operated by the authority.

Section 2 would add two new powers and duties for water and sewer authorities as follows:

- To enter into reimbursements agreements with a property owner or private developer, in accordance with an ordinance setting out procedures for such actions adopted by the authority, for the design and construction of infrastructure that is included on the authority's capital improvement plan and serves the property owner or private developer. Such agreements are not subject to the public contracting provisions, except that the property owner or private developer shall solicit sealed bids or informal bids, if the authority would have had to do so for the project.

- Offer and pay a reward not to exceed $5.000 for information leading to the arrest and conviction of any person who willfully defaces, damages, or destroys authority property, or any person who commits an act of vandalism or larceny of authority property.

EFFECTIVE DATE: Effective when it becomes law.

Erika Churchill, counsel to House Local Government, substantially contributed to this summary.

HOUSE BILL 630

Short Title:	Alternative WQ Protection for Falls Lake.	(Public)
Sponsors:	Representative Yarborough (Primary Sponsor). *For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*	
Referred to:	Environment.	

April 14, 2015

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND THE ENVIRONMENTAL MANAGEMENT COMMISSION TO EXPLORE ALTERNATIVE MEASURES FOR PROTECTING THE WATER QUALITY OF FALLS LAKE.

The General Assembly of North Carolina enacts:

SECTION 1. In implementing the Falls Lake Nutrient Management Strategy, the Department of Environment and Natural Resources and the Environmental Management Commission shall do both of the following:

(1) Examine the results of the Jordan Lake Nutrient Mitigation Demonstration Project established pursuant to Section 14.3A of S.L. 2013-360 to determine if the deployment of similar technology in Falls Lake could reduce or prevent the adverse impacts of excessive nutrient loading in Falls Lake. No later than six months after the completion of the Jordan Lake Nutrient Mitigation Demonstration Project, the Department of Environment and Natural Resources and the Environmental Management Commission shall report the results of the determination made pursuant to this subdivision to the Environmental Review Commission.

(2) No later than October 1, 2015, consult with the United States Environmental Protection Agency to determine if all of the components of the Falls Lake Nutrient Management Strategy are necessary to comply with federal water quality requirements for Falls Lake and if alternative strategies could be employed to comply with federal water quality requirements for Falls Lake. No later than January 1, 2016, the Department of Environment and Natural Resources and the Environmental Management Commission shall report the results of the consultation made pursuant to this subdivision to the Environmental Review Commission.

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 630:
Alternative WQ Protection for Falls Lake

2015-2016 General Assembly

Committee:	House Environment	**Date:**	April 21, 2015
Introduced by:	Rep. Yarborough	**Prepared by:**	Jennifer Mundt Committee Staff
Analysis of:	First Edition		

SUMMARY: ***House Bill 630 would direct the Department of Environment and Natural Resources and the Environmental Management Commission to (i) examine the results of the Jordan Lake Nutrient Mitigation Demonstration Project to determine if similar technology could be deployed to reduce or prevent the adverse impacts of excessive nutrient loading in Falls Lake and (ii) consult with the United States Environmental Protection Agency (USEPA) to determine if all components of the Falls Lake Nutrient Management Strategy are necessary to comply with federal law.***

CURRENT LAW: The 2013 Appropriations Act (Section 14.3A of S.L. 2013-360) directed the Department of Environment and Natural Resources (Department) to establish a 24-month demonstration project for the management of nutrients in Jordan Lake. The demonstration focuses on preventing and reducing harmful algal blooms and excessive chlorophyll as well providing other nutrient mitigation measures in the Haw River arm and the Morgan Creek arm of Jordan Lake by directing the Department to enter into a contract with a third party (SolarBee) to deploy floating arrays of in-lake, long-distance circulators to reduce or prevent the adverse impacts of excessive nutrient loads, such as algal blooms, taste and odor problems in drinking water, and low levels of dissolved oxygen.

BILL ANALYSIS: House Bill 630 would direct the Department and the Environmental Management Commission (Commission) to:

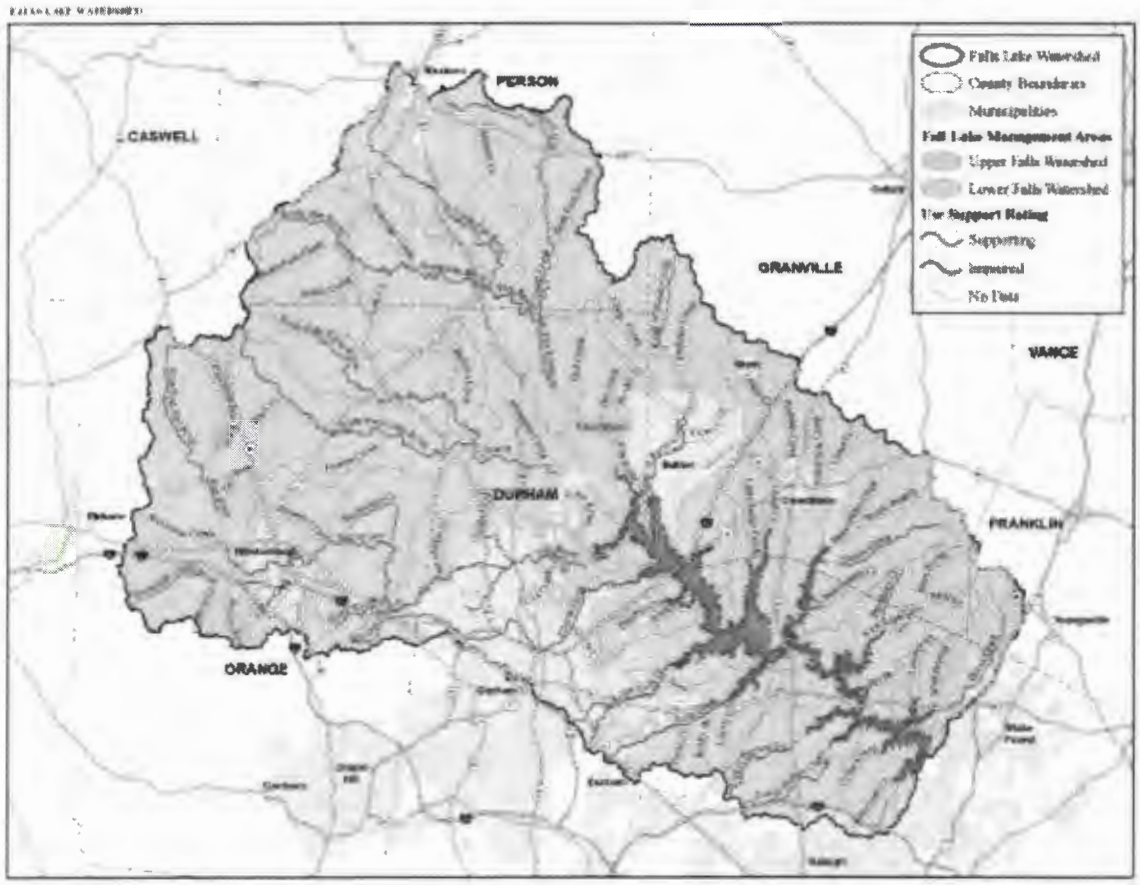
- Examine the results of the SolarBee Demonstration Project to determine if similar technology could be used to reduce or prevent the adverse impacts of excessive nutrient loading in Falls Lake. The Department and the Commission must report the results of their determination no later than six months after completion of the SolarBee demonstration project to the Environmental Review Commission (ERC).
- Not later than October 1, 2015, consult with USEPA to determine if all of the components of the Falls Lake Nutrient Management Strategy are necessary and if alternative strategies could be employed to comply with federal water quality requirements for Falls Lake. The Department and the Commission must report the results of their consultation with USEPA to the ERC no later than January 1, 2016.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: Falls of the Neuse Reservoir (Falls Lake) is a multipurpose impoundment of the Neuse River located in the Upper Neuse River basin. The reservoir is the primary water supply for the City of Raleigh and surrounding towns in Wake County. The Falls Lake dam was constructed and filled

by 1983, and is currently operated by the United States Army Corps of Engineers. The reservoir extends 28 miles to just above the confluence of the Eno and Flat Rivers. The uses for the reservoir include: water supply, flood control, recreation, wildlife enhancement, and augmentation of low flows for purposes of pollution abatement and water quality control in the Neuse River basin. Algal blooms and eutrophic conditions have been present in the lake since impoundment.

Falls Lake was listed on North Carolina's 2008 303(d) list as impaired for *chlorophyll a* and the portion of the lake upstream of I-85 was listed as impaired for turbidity. In 2005, the General Assembly passed Session Law 2005-190, which directed the Commission to study drinking supply reservoirs in general, and to develop and implement a nutrient management strategy based on a calibrated nutrient response model for certain reservoirs, including Falls Lake. The Falls Lake nutrient management approach was amended in S.L. 2009-486 to revise the Commission's deadline to adopt rules from July 1, 2009, to January 15, 2011, and added certain requirements for water quality improvements in the watershed. After developing a nutrient response model and engaging stakeholders for input, a nutrient management strategy was developed, adopted, and became effective January 15, 2011.



Falls Lake Reservoir and Watershed

Image and additional information on the Falls Lake Nutrient Management Program are available from DENR here: http://portal.ncdenr.org/web/fallslake/home

NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES

ENVIRONMENT COMMITTEE REPORT

Representative Rick Catlin, Co-Chair
Representative Pat McElraft, Co-Chair

FAVORABLE

HB **538** **(CS#1)** Clarify Water and Sewer Authority Powers.

Draft Number:	None
Serial Referral:	None
Recommended Referral:	None
Long Title Amended:	No
Floor Manager:	Millis

HB **630** Alternative WQ Protection for Falls Lake.

Draft Number:	None
Serial Referral:	None
Recommended Referral:	None
Long Title Amended:	No
Floor Manager:	Yarborough

FAVORABLE AND RE-REFERRED

HB **141** Stormwater/Flood Control Activities.

Draft Number:	None
Serial Referral:	**LOCAL GOVERNMENT**
Recommended Referral:	None
Long Title Amended:	No
Floor Manager:	Jeter

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

HB **593** Amend Environmental Laws - 2.

Draft Number:	H593-PCS40414-SB-5
Serial Referral:	**JUDICIARY I**
Recommended Referral:	None
Long Title Amended:	No
Floor Manager:	McElraft

TOTAL REPORTED: 4

NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES

ENVIRONMENT COMMITTEE REPORT

Representative Rick Catlin, Co-Chair
Representative Pat McElraft, Co-Chair

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

HB **576** Amend Environmental Laws - 1.

Draft Number:	H576-PCS10350-RIf-12
Serial Referral:	**FINANCE**
Recommended Referral:	None
Long Title Amended:	No
Floor Manager:	McElraft

TOTAL REPORTED: 1

Committee Sergeants at Arms

NAME OF COMMITTEE House Committee on Environment

DATE: 4/21/15 Room: 423

House Sgt-At Arms:

1. Name: Bill Morris
2. Name: Rey Cooke
3. Name: Dean Marshbourne
4. Name:
5. Name:

Senate Sgt-At Arms:

1. Name:
2. Name:
3. Name:
4. Name:
5. Name:

Pages

Tuesday, April 21 ENVIRONMENT	Room 423	Time 11:00 am

Name	County	Sponsor
Jacob Johnson	Haywood	Joe Sam Queen
Byrde Wells Jr.	Dare	Paul Tine

VISITOR REGISTRATION SHEET

House Committee on Environment — 4/21/15

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
DAVID BARNES	Elect. Cities
Jim Dickson	BSA
Dana Fenton	City of Charlotte
Daryl Hammock	City of Charlotte
George Everett	Duke Energy
Susan Rich	Duke Energy
Kara Weishaar	SA
Don O'Toole	Dominion
Preston Howard	NCMA
Heather Jarman	BASE
Sarah Collins	NCLM

VISITOR REGISTRATION SHEET

House Committee on Environment — 4/21/15

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Craig Sarvis	NSIA
Nelson Freeman	NC DOR
JGoodman	NC CHAMBER
Phoebe Landon	Brooks Pierce
Doug Howey	NCPCM
Mike Smallwood	SOG
[illegible]	[illegible]
Paul Hogan	Ingram Inc.
Mariah Lopez	Shadow of Martin
Allen Hardison	CRSWMA
Tom Bean	EDF, NCWF

VISITOR REGISTRATION SHEET

House Committee on Environment — 4/21/15

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Cassie Gavin	Sierra Club
Andy Chase	KMA
Will Culpepper	MVA
[illegible]	[illegible]
[illegible]	BSP
Mary Maile Ashley	SELC
[illegible]	[illegible]
Chris Diccon	[illegible]
Vicki Smith	NCDOJ
Brooks Rainey Pearson	SELC
Matthew Starr	upper Neuse Riverkeeper / Sound Rivers

VISITOR REGISTRATION SHEET

House Committee on Environment — 4/21/15

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jennifer Dean	WakeUP Wake County
Grady McCallie	NC Conservation Network
Sarah Bales	Brubaker & Assoc.
Mia Bailey	ElectriCities
Whitney Christensen	Ward & Smith, PA
Dan Crawford	NCLCV
Natalie Bridwell	CAMC
[illegible]	[illegible]

Corrected #1: Remove HB 639

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2015-2016 SESSION

You are hereby notified that the **House Committee on Environment** will meet as follows:

DAY & DATE: Thursday, April 23, 2015
TIME: **10:00 AM**
LOCATION: **544 LOB**
COMMENTS: **Rep. McElraft will Chair.**

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 634	Stormwater/Built-Upon Area Clarification.	Representative Torbett
HB 765	Env. Technical Corrections.	Representative McElraft
HB 795	SEPA Reform.	Representative Torbett Representative Hager Representative Millis
HB 339	Add Fonta Flora Trail to State Parks System.	Representative Blackwell

Respectfully,

Representative Rick Catlin, Co-Chair
Representative Pat McElraft, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 8:12 AM on Thursday, April 23, 2015.

___ Principal Clerk
___ Reading Clerk – House Chamber

Laura Holt-Kabel (Committee Assistant)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2015-2016 SESSION

You are hereby notified that the **House Committee on Environment** will meet as follows:

DAY & DATE: Thursday, April 23, 2015
TIME: **10:00 AM**
LOCATION: **544 LOB**
COMMENTS: **Rep. McElraft will Chair.**

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 639	Risk-Based Remediation Amends.	Representative Millis Representative Adams
HB 634	Stormwater/Built-Upon Area Clarification.	Representative Torbett
HB 765	Env. Technical Corrections.	Representative McElraft
HB 795	SEPA Reform.	Representative Torbett Representative Hager Representative Millis
HB 339	Add Fonta Flora Trail to State Parks System.	Representative Blackwell

Respectfully,

Representative Rick Catlin, Co-Chair
Representative Pat McElraft, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 3:25 PM on Thursday, April 16, 2015.

___ Principal Clerk
___ Reading Clerk – House Chamber

Laura Holt-Kabel (Committee Assistant)

House Committee on Environment
Thursday, April 23, 2015 at 10:00 AM
Room 544 of the Legislative Office Building

MINUTES

The House Committee on Environment met at 10:00 AM on April 23, 2015 in Room 544 of the Legislative Office Building. Representatives Adams, Bradford, Brawley, Carney, Catlin, Collins, Hager, Harrison, Iler, Insko, Luebke, G. Martin, McElraft, McGrady, Millis, Stevens, West, and Yarborough attended.

Representative Pat McElraft, Chair, presided.

The following bills were considered:

HB 634 Stormwater/Built-Upon Area Clarification. (Representative Torbett)
Unfavorable to original bill, Favorable to committee substitute.

HB 765 Env. Technical Corrections. (Representative McElraft)
Favorable to original bill.

HB 795 SEPA Reform. (Representatives Torbett, Hager, Millis)
Unfavorable to original bill, Favorable to committee substitute.

HB 339 Add Fonta Flora Trail to State Parks System. (Representative Blackwell)
Favorable to original bill.

The meeting adjourned at 10:45 AM.

Representative Pat McElraft, Chair
Presiding

Laura Holt-Kabel, Committee Clerk

ATTENDANCE

House Environment Committee

(Nancy Fox___ and Laura Holt-Kabel ___)

DATES	4/23														
Rep. Rick Catlin, Chair	✓														
Rep. Pat McElraft, Chair	✓														
Rep. Jay Adams, Vice	✓														
Rep. Nathan Baskerville															
Rep. John Bradford	✓														
Rep. Bill Brawley	✓														
Rep. William Brisson															
Rep. Cecil Brockman															
Rep. Becky Carney	✓														
Rep. Jeff Collins	✓														
Rep. Jimmy Dixon															
Rep. Mike Hager	✓														
Rep. Pricey Harrison, Vice	✓														
Rep. Frank Iler	✓														
Rep. Verla Insko	✓														
Rep. Paul Leubke	✓														
Rep. Grier Martin	✓														
Rep. Chuck McGrady, Vice	✓														
Rep. Chris Millis	✓														
Rep. Bob Steinburg															
Rep. Sarah Stevens	✓														
Rep. Roger West	✓														
Rep. Larry Yarborough	✓														
Staff:															
Jeffrey Hudson	✓														
Mariah Matheson	✓														
Jennifer McGinnis	✓														
Jennifer Mundt	✓														
Chris Saunders	✓														

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

HOUSE BILL 634

Short Title:	Stormwater/Built-Upon Area Clarification.	(Public)
Sponsors:	Representative Torbett (Primary Sponsor). *For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*	
Referred to:	Environment.	

April 14, 2015

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE DEFINITION OF BUILT-UPON AREA FOR PURPOSES OF STORMWATER PROGRAMS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 143-214.7(b2) reads as rewritten:

"(b2) For purposes of implementing stormwater programs, "built-upon area" means impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. "Built-upon area" does not include a slatted deck or the water area of a ~~swimming pool.~~swimming pool, or a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least 4" thick over a geotextile fabric."

SECTION 1.(b) Notwithstanding Section 45(c) of S.L. 2014-120, the Environmental Management Commission shall issue rules to implement this section no later than December 1, 2015.

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 634:
Stormwater/Built-Upon Area Clarification

2015-2016 General Assembly

Committee:	House Environment	**Date:**	April 23, 2015
Introduced by:	Rep. Torbett	**Prepared by:**	Jeff Hudson Committee Counsel
Analysis of:	First Edition		

SUMMARY: House Bill 634 would provide that for purposes of implementing stormwater programs, "built-upon area" does not include a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least 4" thick over a geotextile fabric.

CURRENT LAW:

Under current law, for purposes of implementing stormwater programs, "built-upon area" means impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. "Built-upon area" does not include a slatted deck or the water area of a swimming pool.

BILL ANALYSIS:

House Bill 634 would provide that for purposes of implementing stormwater programs, "built-upon area" does not include a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least 4" thick over a geotextile fabric.

House Bill 634 also directs the Environmental Management Commission to issue rules to implement this change no later than December 1, 2015.

EFFECTIVE DATE:

This act would become effective when it becomes law.

O. Walker Reagan
Director

* H 6 3 4 - S M S B - 1 0 E 1 - V 1 *

Research Division
(919) 733-2578

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 634

AMENDMENT NO. 1
(to be filled in by
Principal Clerk)

H634-ASB-12 [v.2]

Amends Title [NO]
First Edition

Date _____,2015

Representative Watt

moves to amend the bill on page 1, line 13,
by deleting the word "issue" and substituting the word "adopt".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

HOUSE BILL 765

Short Title:	Env. Technical Corrections.	(Public)
Sponsors:	Representative McElraft (Primary Sponsor). *For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*	
Referred to:	Environment.	

April 15, 2015

A BILL TO BE ENTITLED

AN ACT TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS TO VARIOUS LAWS RELATED TO ENVIRONMENT AND NATURAL RESOURCES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-116 reads as rewritten:

"**§ 20-116. Size of vehicles and loads.**

...

(g) ...

(3) A truck, trailer, or other ~~vehicle:~~

~~a.~~ ~~Licensed~~ vehicle licensed for 7,500 pounds or less gross vehicle weight and loaded with rock, gravel, stone, or any other similar substance that could fall, blow, leak, or sift, or licensed for any gross vehicle weight and loaded with ~~sand; or~~sand,

~~b. Licensed for 7,500 pounds or less gross vehicle weight and loaded with rock, gravel, stone, or any other similar substance that could fall, blow, leak, sift, or drop;~~

shall not be driven or moved on any highway unless:

a. The height of the load against all four walls does not extend above a horizontal line six inches below the top when loaded at the loading point;

b. The load is securely covered by tarpaulin or some other suitable covering; or

c. The vehicle is constructed to prevent any of its load from falling, dropping, sifting, leaking, blowing, or otherwise escaping therefrom.

...."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 765:
Env. Technical Corrections

2015-2016 General Assembly

Committee:	House Environment	**Date:**	April 23, 2015
Introduced by:	Rep. McElraft	**Prepared by:**	Jennifer Mundt Committee Staff
Analysis of:	First Edition		

SUMMARY: ***House Bill 765 would make clarifying, conforming, and technical amendments to various laws related to the environment and natural resources.***

BILL ANALYSIS: House Bill 765 would make a technical amendment to G.S. 20-116(g)(3) to rewrite the provision to eliminate duplicative lettering in accordance with coded bill drafting protocol.

EFFECTIVE DATE: House Bill 765 is effective when it becomes law.

CURRENT LAW: G.S. 20-116 governs the size and loads of vehicles on State roads and highways.

Presently, G.S. 20-116(g)(3) reads as follows:

(3) A truck, trailer, or other vehicle:
- a. Licensed for any gross vehicle weight and loaded with sand; or
- b. Licensed for 7,500 pounds or less gross vehicle weight and loaded with rock, gravel, stone, or any other similar substance that could fall, blow, leak, sift, or drop;

shall not be driven or moved on any highway unless:
- a. The height of the load against all four walls does not extend above a horizontal line six inches below the top when loaded at the loading point;
- b. The load is securely covered by tarpaulin or some other suitable covering; or
- c. The vehicle is constructed to prevent any of its load from falling, dropping, sifting, leaking, blowing, or otherwise escaping therefrom.

O. Walker Reagan
Director

H765-SMTA-12 E1 -V1

Research Division
(919) 733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H 1

HOUSE BILL 795

Short Title:	SEPA Reform.	(Public)
Sponsors:	Representatives Torbett, Hager, and Millis (Primary Sponsors). *For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*	
Referred to:	Environment.	

April 15, 2015

A BILL TO BE ENTITLED

AN ACT TO REFORM AND AMEND THE STATE ENVIRONMENTAL POLICY ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113A-4 reads as rewritten:

"**§ 113A-4. Cooperation of agencies; reports; availability of information.**

The General Assembly authorizes and directs that, to the fullest extent possible:

...

(2) Every State agency shall include in every recommendation or report on any action involving significant expenditure of public moneys or use of public land for projects and programs significantly affecting the quality of the environment of this State, a detailed statement by the responsible official setting forth the following:

a. The direct environmental impact of the proposed action;
b. Any significant adverse environmental effects which cannot be avoided should the proposal be implemented;
c. Mitigation measures proposed to minimize the impact;
d. Alternatives to the proposed action;
e. The relationship between the short-term uses of the environment involved in the proposed action and the maintenance and enhancement of long-term productivity; and
f. Any irreversible and irretrievable environmental changes which would be involved in the proposed action should it be implemented.

For purposes of this subdivision, a direct environmental impact does not include impacts that are speculative, secondary, or cumulative with other previous actions or that occur outside of the State.

(2a) Prior to making any detailed statement, the responsible official shall consult with and obtain the comments of any agency which has either jurisdiction by law or special expertise with respect to any environmental impact involved. The failure of an agency to provide comments within the comment period established under this subdivision or to request an extension for a specific period of time set forth in the request shall be treated by the responsible official as a conclusion by that agency that there is no significant environmental impact. Any unit of local government or other interested party that may be adversely affected by the proposed action may submit written comment. The responsible official shall consider written comment

from units of local government and interested parties that is received within the established comment period. Copies of such detailed statement and such comments shall be made available to the Governor, to such agency or agencies as he may designate, and to the appropriate multi-county regional agency as certified by the Secretary of Administration, shall be placed in the public file of the agency and shall accompany the proposal through the existing agency review processes. A copy of such detailed statement shall be made available to the public and to counties, municipalities, institutions and individuals, upon request.

...."

SECTION 2. G.S. 113A-9 reads as rewritten:

"**§ 113A-9. Definitions.**

As used in this Article, unless the context indicates otherwise, the term:

...

(7) "Public land" means all land and interests therein, title of which is vested in the State of North Carolina, in any State agency, or in the State for the use of any State agency or political subdivision of the State, and includes all vacant and unappropriated land, swampland, submerged land, land acquired by the State by virtue of being sold for ~~taxes, escheated land, and acquired land.~~taxes or by any other manner of acquisition, or escheated land.

(7a) "Significant expenditure of public moneys" means expenditures of public funds greater than twenty million dollars ($20,000,000) for a single project or action or related group of projects or actions. For purposes of this subdivision, contributions of funds or in-kind contributions by municipalities, counties, regional or special-purpose government agencies, and other similar entities created by an act of the General Assembly and in-kind contributions by a non-State entity shall not be considered an expenditure of public funds for purposes of calculating whether such an expenditure is significant.

...

(11) "Use of public land" means land-disturbing activity of greater than 20 acres that results in substantial, permanent changes in the natural cover or topography of those lands that includes:

a. The grant of a lease, easement, or permit authorizing private use of public land; or

b. The use of privately owned land for any project or program if (i) the State or any agency of the State has agreed to purchase the property or to exchange the property for public ~~land.~~land and (ii) the use meets the other requirements of this subdivision."

SECTION 3. G.S. 113A-10 reads as rewritten:

"**§ 113A-10. Provisions supplemental.**

The policies, obligations and provisions of this Article are supplementary to those set forth in existing authorizations of and statutory provisions applicable to State agencies and local governments. In those instances where a State agency is required to prepare an environmental document or to comment on an environmental document under provisions of federal law, no separate environmental document shall be required to be prepared or published under this Article so long as the environmental document or comment ~~shall meet~~meets the provisions of this Article."

SECTION 4. G.S. 113A-11 reads as rewritten:

"**§ 113A-11. Adoption of rules.**

(a) The Department of Administration shall adopt rules to implement this Article.

(b) Each State agency ~~may~~ shall adopt rules that establish minimum criteria. An agency may include a particular action or class of actions in its minimum criteria only if the agency makes a specific finding that the action or class of actions has no significant long-term impact on the environment. Rules establishing minimum criteria shall be consistent with rules adopted by the Department of Administration. ~~In addition to all other rule-making requirements, rules establishing minimum criteria are subject to approval by the Secretary of Administration.~~"

SECTION 5. G.S. 113A-12 reads as rewritten:

"**§ 113A-12. Environmental document not required in certain cases.**

~~No~~ Notwithstanding any other provision in this Article, no environmental document shall be required in connection with:

(1) The construction, maintenance, or removal of an electric power line, water line, sewage line, stormwater drainage line, telephone line, telegraph line, cable television line, data transmission line, ~~or~~ natural gas ~~line~~line, or similar infrastructure project within or across the right-of-way of any street or highway.

(2) An action approved ~~under~~ under:

a. ~~A~~a general permit issued under G.S. 113A-118.1, 143-215.1(b)(3), or 143-215.108(c)(8).

b. A Coastal Habitat Protection Plan under G.S. 143B-279.8.

c. A special order pursuant to G.S. 143-215.2 or G.S. 143-215.110.1.

d. An action taken to address an emergency under G.S. 143-215.3 or other similar emergency conditions.

e. A remedial or similar action to address contamination under Chapters 130A or 143 of the General Statutes, including a brownfield agreement entered into under G.S. 130A-310.32.

f. A certificate of convenience and necessity under G.S. 62-110.

g. An industrial or pollution control project approval by the Secretary of Commerce under Chapter 159C of the General Statutes.

h. A project approved as a water infrastructure project under Chapter 159G of the General Statutes.

i. A certification issued by the Division of Water Resources of the Department of Environment and Natural Resources under the authority granted to the Environmental Management Commission by G.S. 143B-282(a)(1)u.

(3) A lease or easement granted by a State agency for:

a. The use of an existing building or facility.

b. Placement of a wastewater line or other structures or uses on or under submerged lands pursuant to a permit granted under G.S. 143-215.1.

c. A shellfish cultivation lease granted under G.S. 113-202.

d. A facility for the use or benefit of The University of North Carolina System, the North Carolina community college system, the North Carolina public school systems, or one or more constituent institutions of any of those systems.

e. A health care facility financed pursuant to Chapter 131A of the General Statutes or receiving a certificate of need under Article 9 of Chapter 131E of the General Statutes.

(4) The construction of a driveway connection to a public roadway.

(5) ~~A~~ Any State action in connection with a project for which public lands are used and/or public monies are expended if the land or expenditure is provided as ~~solely for the payment of incentives~~an incentive for the project pursuant to an agreement that makes the ~~incentive payments~~incentives

contingent on prior completion of the project or activity, or completion on a specified timetable, and a specified level of job creation or new capital investment.

(6) A major development as defined in G.S. 113A-118 that receives a permit issued under Article 7 of Chapter 113A of the General Statutes.

...

(9) Facilities created in the course of facilitating closure activities under Part 2I of Article 9 of Chapter 130A of the General Statutes.

(10) Any project or facility specifically required or authorized by an act of the General Assembly.

(11) Any project undertaken as mitigation for the impacts of an approved project or to mitigate or avoid harm from natural environmental change, including wetlands and buffer mitigation projects and banks, coastal protections and mitigation projects, and noise mitigation projects."

SECTION 6. G.S. 159G-38 reads as rewritten:

"**§ 159G-38. ~~Environmental assessment and public~~Public hearing.**

~~(a) Required Information. – An application submitted under this Article for a loan or grant for a project must state whether the project requires an environmental assessment. If the application indicates that an environmental assessment is not required, it must identify the exclusion in the North Carolina Environmental Policy Act, Article 1 of Chapter 113A of the General Statutes, that applies to the project. If the application does not identify an exclusion in the North Carolina Environmental Policy Act, it must include an environmental assessment of the project's probable impacts on the environment.~~

~~(b) Division Review. – If, after reviewing an application, the Division of Water Infrastructure determines that a project requires an environmental assessment, the assessment must be submitted before the Division continues its review of the application. If, after reviewing an environmental assessment, the Division concludes that an environmental impact statement is required, the Division may not continue its review of the application until a final environmental impact statement has been completed and approved as provided in the North Carolina Environmental Policy Act.~~

~~(c)~~ Hearing. – The Division of Water Infrastructure may hold a public hearing on an application for a loan or grant under this Article if it determines that holding a hearing will serve the public interest. An individual who is a resident of any county in which a proposed project is located may submit a written request for a public hearing. The request must set forth each objection to the proposed project or other reason for requesting a hearing and must include the name and address of the individual making the request. The Division may consider all written objections to the proposed project, any statement submitted with the hearing request, and any significant adverse effects the proposed project may have on the environment. The Division's decision on whether to hold a hearing is conclusive. The Division must keep all written requests for a hearing on an application as part of the records pertaining to the application."

SECTION 7. This act is effective when it becomes law.

HOUSE BILL 795:
SEPA Reform

2015-2016 General Assembly

Committee:	House Environment	**Date:**	April 23, 2015
Introduced by:	Reps. Torbett, Hager, Millis	**Prepared by:**	Jeff Hudson
Analysis of:	First Edition		Committee Counsel

SUMMARY: House Bill 795 would increase the thresholds for when the State Environmental Policy Act applies, increase the number of exemptions from the Act, and otherwise amend the Act.

CURRENT LAW:

Under the State Environmental Policy Act (SEPA), a State agency must include in its recommendation on any action involving (i) expenditure of public moneys or (ii) use of public land for projects and programs significantly affecting the quality of the environment of the State, a detailed statement that sets out the following:

- The environmental impact of the proposed action.
- Any significant adverse environmental effects that cannot be avoided if the proposal is implemented.
- Mitigation measures proposed to minimize the impact.
- Alternatives to the proposed action.
- The relationship between the short term uses of the environment involved in the proposed action and the maintenance and enhancement of long term productivity.
- Any irreversible and irretrievable environmental changes which would be involved in the proposed action if it is implemented.

Several types of projects are exempted from this requirement, including:

- The construction, maintenance, or removal of certain utility lines within or across the right of way of any street or highway.
- An action approved under a general permit issued by the Coastal Resources Commission for certain types of coastal development or by the Environmental Management Commission for certain activities related to water and air quality.
- A lease or easement granted by a State agency for the use of an existing building or facility, placement of a wastewater line on or under submerged lands, or a shellfish cultivation lease.
- The construction of a driveway connection to a public roadway.
- A project for which public monies are expended if the expenditure is solely for the payment of incentives for job creation or capital investment.

- A coastal development that receives a major development permit from the Coastal Resources Commission.
- Certain coastal road and bridge projects when an executive order is issued waiving the environmental impact statement requirement.

BILL ANALYSIS:

House Bill 795 would increase the thresholds for when the State Environmental Policy Act (SEPA) applies, increase the number of exemptions from the Act, and otherwise amend the Act as follows:

- SEPA requirements would only apply when there are significant expenditures of public moneys. The bill defines "significant expenditure of public moneys" as expenditures of public funds greater than $20,000,000.
- An environmental impact statement for a project would only include the direct environmental impacts of an action. The bill provides that "direct environmental impact" does not include impacts that are speculative, secondary, or cumulative.
- Provides that failure of an agency to provide comments on an action within the comment period or to request an extension of the comment period will be treated as a conclusion by the agency that there is no significant environmental impact.
- Provides the "use of public land" means land-disturbing activity of greater than 20 acres that results in substantial, permanent changes in the natural cover or topography of those lands. Under current law, "use of public land" means activity that results in changes in the natural cover or topography of those lands.
- Provides that each State agency must adopt minimum criteria that include actions that have no significant long-term impact to the environment and to which the SEPA requirements will not apply. Under current law, each State agency may adopt minimum criteria that include actions that have no significant impact to the environment and to which SEPA requirements will not apply.
- Expands existing and creates new exemptions from SEPA requirements as follows:
    - Expands the current utility line exemption to include "similar infrastructure projects".
    - Expands the current action under a general permit exemption to include actions approved under the following:
        - A Coastal Habitat Protection Plan.
        - A special order to stop water or air pollution
        - An action to address an environmental emergency.
        - Remedial action under the waste, water, air, and Brownfields programs.
        - A certificate of convenience for a public utility.
        - Industrial or pollution control project financing approved by the Secretary of Commerce.
        - Water infrastructure project financing approval.
        - A water quality certification.

- Expands the lease or easement exemption as follows:
  - Expands the submerged lands lease or easement exemption to exempt placement of other wastewater structures or uses on or under submerged lands.
  - Exempts the granting of a lease or easement for a facility for the use or benefit of a public education institution.
  - Exempts the granting of a lease or easement for a health care facility financed under the State Health Care Facilities Finance Act or receiving a certificate of need.
- Expands the public incentives exemption to include use of public lands.
- Adds an exemption for facilities related to the closure of coal ash impoundments.
- Adds an exemption for any project or facility specifically required or authorized by the General Assembly.
- Adds an exemption for mitigation projects, including wetlands and buffer mitigation projects and banks, coastal protections and mitigation projects, and noise mitigation projects.

House Bill 795 would also make a conforming change to the statues governing the program for water infrastructure loans and grants administered by the Department of Environment and Natural Resources to eliminate the requirement that applications for a loan or grant from the program provide environmental information.

EFFECTIVE DATE:

This act would become effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 795

AMENDMENT NO. _____
(to be filled in by Principal Clerk)

H795-ASB-15 [v.1]

Amends Title [NO]
First Edition

Date _____, 2015

Representative Hager

moves to amend the bill on page 3, line 20,
by deleting " G.S. 143-215.110.1." and substituting " G.S. 143-215.110." and

on page 4, line 42,
by rewriting the line to read:

"**SECTION 7.** This act is effective when it becomes law and applies to State agency action occurring on or after that date.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

HOUSE BILL 339*

Short Title:	Add Fonta Flora Trail to State Parks System.	(Public)
Sponsors:	Representative Blackwell (Primary Sponsor). *For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*	
Referred to:	Environment.	

March 25, 2015

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ADDITION OF THE FONTA FLORA LOOP TRAIL IN BURKE COUNTY TO THE STATE PARKS SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. The General Assembly finds that a hiking and biking trail around Lake James in Burke County would provide a multitude of economic, recreational, health, environmental, community and transportation benefits. The General Assembly further finds that a number of federal, State, local and private partners have expressed substantial interest in completing such a trail; that such a trail would be a recreational resource of statewide significance; and that including such a trail in the State Parks System as a State Trail would be beneficial to the people of North Carolina and further the development of North Carolina as "The Great Trails State."

SECTION 2. The General Assembly authorizes the Department of Environment and Natural Resources to add the Fonta Flora Loop Trail to the State Parks System as provided in G.S. 113-44.14(b). The Department shall support, promote, encourage, and facilitate the establishment of trail segments on State park lands and on lands of other federal, State, local, and private landowners. On segments of the Fonta Flora Loop Trail that cross property controlled by agencies or owners other than the Department's Division of Parks and Recreation, the laws, rules, and policies of those agencies or owners shall govern the use of the property.

SECTION 3. This act is effective when it becomes law.

HOUSE BILL 339:
Add Fonta Flora Trail to State Parks System

2015-2016 General Assembly

Committee:	House Environment	**Date:**	April 23, 2015
Introduced by:	Rep. Blackwell	**Prepared by:**	Jennifer McGinnis
Analysis of:	First Edition		Committee Counsel

SUMMARY: ***House Bill 339 would authorize the Department of Environment and Natural Resources (DENR) to add the Fonta Flora Loop Trail to the State Parks System.***

[As introduced, this bill was identical to S221, as introduced by Sen. Daniel, which is currently in Senate Agriculture/Environment/Natural Resources.]

CURRENT LAW: G.S. 113-44.14(b) provides that the Department may add a State park, State natural area, State recreation area, State trail, State river, or State lake to the State Parks System upon authorization by an act of the General Assembly.

BILL ANALYSIS: The bill would authorize DENR to add the Fonta Flora Loop Trail to the State Parks System, and direct DENR to support, promote, encourage, and facilitate the establishment of trail segments on State park lands and on lands of other federal, State, local, and private landowners. The bill specifically provides that on segments of the Fonta Flora Loop Trail that cross property controlled by agencies or owners other than DENR's Division of Parks and Recreation, the laws, rules, and policies of those agencies or owners would govern the use of the property.

BACKGROUND: The Fonta Flora Loop Trail would surround Lake James in Burke County. See attached memo supplied by DENR.

EFFECTIVE DATE: The bill would be effective when it becomes law.

O. Walker Reagan
Director

H339-SMRI-11 E1 -V3

Research Division
(919) 733-2578

HB 339 Add Fonta Flora State Trail to State Parks System

Burke County initiated the idea for a loop trail around Lake James, and the county has been working with landowners and partners around the lake to plan and implement the trail. In addition to the county, partners include Duke Energy Carolinas, Crescent Communities, NC Wildlife Resources Commission, NC DOT, Foothills Land Conservancy, Lake James State Park and several others. Burke County has prepared the *Lake James Loop Trail Master Plan*, which shows that the concept for the trail is well-developed, and the partners are committed to providing right-of-way for the trail on their respective properties. The Division of Parks and Recreation supports the trail concept, but suggested a different name to make clear that the proposed State Trail was to be administratively separate from Lake James State Park.

The benefit of authorizing the addition of the trail to the State Parks System is the added recognition and publicity provided by including the trail on the Division of Parks and Recreation website, maps, brochures and other public information, as well as the enhanced ability of the state to help coordinate and facilitate the work of the other partners.

The State Parks Act (GS 113-44.9) defines the types of units in the State Parks System to include State Parks, State Natural Areas, State Recreation Areas, State Trails, State Rivers and State Lakes. **The proposed Fonta Flora would be a State Trail, not a State Park.** Whereas a State Park is operated and managed by the Division of Parks and Recreation, a State Trail represents a partnership among multiple agencies, landowners and local governments, working together to implement a shared vision. Part of a State Trail may be managed by the Division of Parks and Recreation, but segments of the trail that cross property controlled by others will continue to be managed by those other landowners.

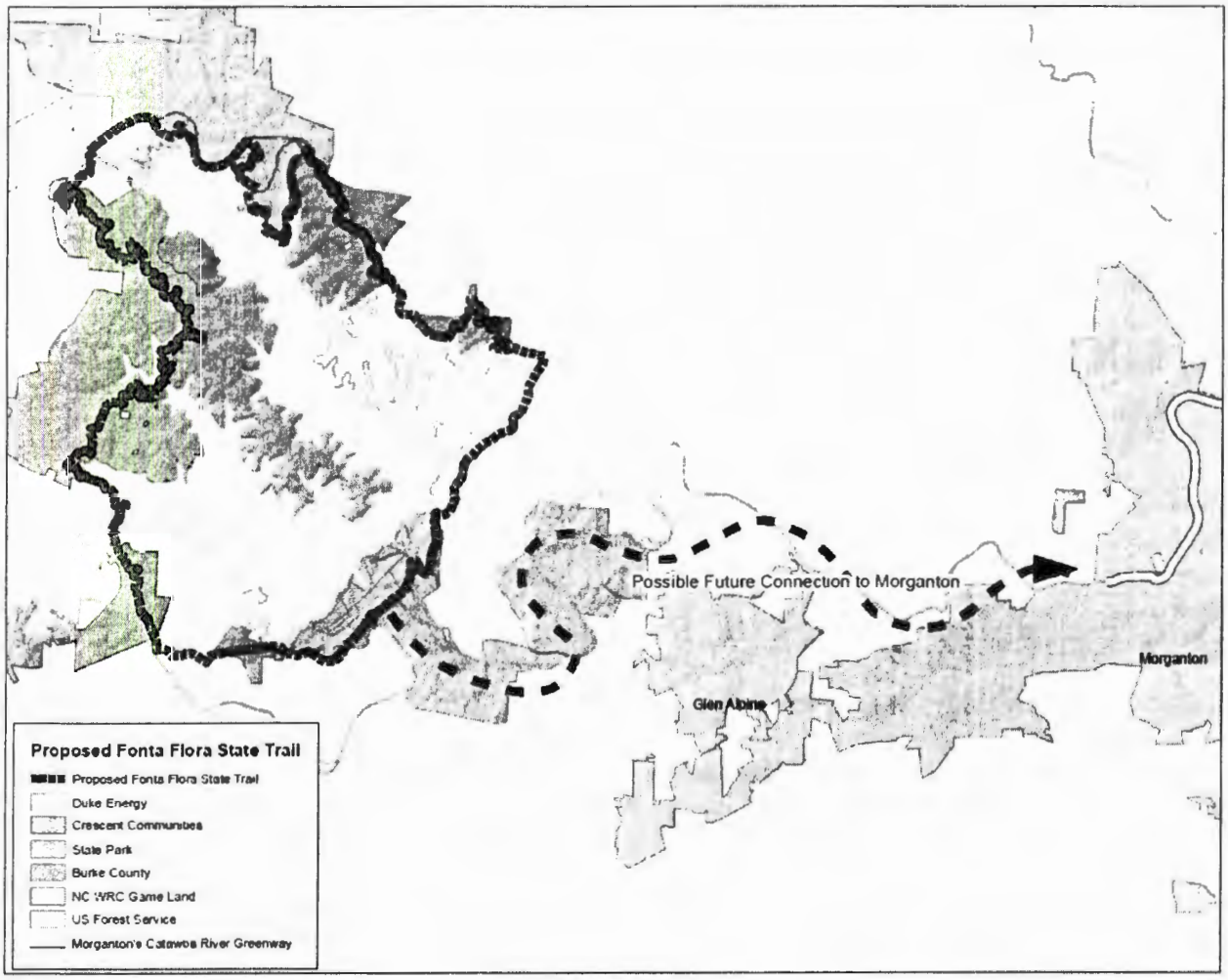
In the case of the proposed Fonta Flora State Trail, part of the trail would cross through Lake James State Park. That part of the trail will be built, maintained and operated as part of the existing park. Other portions of the trail will cross lands owned by the county and other partners, and these portions of the trail will continue to be built, maintained and operated by those partners.

Funds for building and maintaining trail within Lake James State Park will be obtained from the Parks and Recreation Trust Fund or other sources that currently fund any trail work within the state parks. The loop trail around the lake was contemplated when the Lake James State Park master plan was completed in 2006, and construction of the loop segment within the park is an anticipated expense in development of the park.

Funds for building and maintaining trail outside the state park boundaries will be obtained by other partners. Burke County is eligible to apply for grant funding from the local share of the Parks and Recreation Trust Fund, the federal Recreational Trails Program and other sources. Authorization of the Fonta Flora State Trail may improve their ability to receive grants.

In summary, authorization of the Fonta Flora State Trail is not expected to result in any significant additional costs to the Division of Parks and Recreation. Existing staff would work with trail partners to coordinate and publicize the trail. Existing sources of funding would be used to build and maintain segments of trail on state park land, and other partners would be responsible for building and maintaining trail segments outside park boundaries. Authorization of Fonta Flora State Trail may provide higher priority for grant funding to local and private partners.

The Division of Parks and Recreation suggests naming the trail "Fonta Flora State Trail" rather than "Fonta Flora Loop Trail". Someday, an extension of the trail to Morganton may be feasible.



NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES

ENVIRONMENT COMMITTEE REPORT

Representative Rick Catlin, Co-Chair
Representative Pat McElraft, Co-Chair

FAVORABLE

HB **339** — Add Fonta Flora Trail to State Parks System.

Draft Number:	None
Serial Referral:	None
Recommended Referral:	None
Long Title Amended:	No
Floor Manager:	Blackwell

HB **765** — Env. Technical Corrections.

Draft Number:	None
Serial Referral:	None
Recommended Referral:	None
Long Title Amended:	No
Floor Manager:	McElraft

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL

HB **634** — Stormwater/Built-Upon Area Clarification.

Draft Number:	H634-PCS30350-SB-9
Serial Referral:	None
Recommended Referral:	None
Long Title Amended:	No
Floor Manager:	Torbett

HB **795** — SEPA Reform.

Draft Number:	H795-PCS20331-SB-10
Serial Referral:	None
Recommended Referral:	None
Long Title Amended:	No
Floor Manager:	Torbett

TOTAL REPORTED: 4

House Staff

Committee: H Cmte on ENVIRONMENT Date: 23 APR 2015

Pages

1. Name Pira Apputhurai

   County Mecklenburg Sponsor Wm Brawley

2. Name A Lina ~~ADAM~~ CARDWELL

   County ALAMANCE Sponsor Dennis Riddell

3. Name Alisha Harrison

   County Wake Sponsor Paul STAM

4. Name _____

   County _____ Sponsor _____

5. Name _____

   County _____ Sponsor _____

Sergeant-at-Arms

BARRY MOORE

B. H. Powell

DAVID LINTHICUM

VISITOR REGISTRATION SHEET

House CMTE ON ENVIRONMENT — 4/23/15

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Martha Jenkins	DCR
	MWC
Christine Wunsche	SOG Daily Bulletin
	Perkins Law
TRACY DAVIS	DENR-DCMLK
Kim Colson	DENR-DWI
Brad Kuett	DENR
DAN Crawford	NCLCV
Linda Culpepper	DENR-DWR
	NCCN
Matthew Dockham	NC DENR

VISITOR REGISTRATION SHEET

House CMTE ON ENVIRONMENT — 4-23-15

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Tonya Hagan	TSS
Will Culpepper	MVA
Joe McClees	McClees Consulting
Brooks Rainey Pearson	SELC
Cassie Gavin	Sierra Club
Dusti Chavez (Sanford)	Sierra Club
Molly Diggins	Sierra Club

VISITOR REGISTRATION SHEET

HOUSE CMTE ON ENVIRONMENT — 23 APR 2019

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ellmer Fudd	Warner Bros
Jake Cashion	NCCC
Patrick Buffkin	NC's electric Cooperatives
Samuel Hunt	MVA
Bill McAulay	PSNC Energy
Rhonda Todd	DOT
Crystal Best	DOT
Doug Howey	NCPCM
Rob Lamme	RLA
Cindy Thomas	Forbes Carolina
Kara Weishaar	SA

VISITOR REGISTRATION SHEET

House CMTE on Environment 4/23/15

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Sarah Vick	Duke Energy
George Everett	" "
John Bell	private citizen
Sarah Collins	NCLM
Jerry Schill	NCFA
J GOODMAN	NC CHAMBER
PRESTON HOWARD	NCMA
Doug Lattin	NCSTA
Allen Hardison	CRSWMA

Nancy Fox (Rep. Pat McElraft)

From: Dianne Russell (House Legislative Assistant Director)
Sent: Wednesday, April 29, 2015 08:42 PM
To: Rep. Chris Millis; Rep. Jay Adams
Cc: Vivian Sherrell (Rep. Chris Millis); Susan Phillips (Rep. Jay Adams)
Subject: <NCGA> House Environment Committee Meeting Notice for Thursday, April 30, 2015 at 10:00 AM - CANCELLED
Attachments: Add Meeting to Calendar_LINC_.ics

Cancelled Notice

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2015-2016 SESSION

You are hereby notified that the **House Committee on Environment** will **NOT** meet as follows:

DAY & DATE: Thursday, April 30, 2015
TIME: **10:00 AM**
LOCATION: **544 LOB**
COMMENTS: **Rep. Catlin will preside.**

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 639	Risk-Based Remediation Amends.	Representative Millis Representative Adams

Respectfully,

Representative Rick Catlin, Co-Chair
Representative Pat McElraft, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 8:42 PM on Wednesday, April 29, 2015.

___ Principal Clerk
___ Reading Clerk – House Chamber

Dianne Russell (Committee Assistant)

House Committee on Environment
Thursday, April 30, 2015 at 10:00 AM
Room 544 of the Legislative Office Building

MINUTES

The House Committee on Environment met around the desk of Rep. McElraft during a break from session at 6:00 PM.

HB 639 Risk-Based Remediation Amends. Unfavorable to original, Favorable to PCS.

Hold to next meeting.

The meeting adjourned at 6:05PM.

Representative Pat McElraft, Chair
Presiding

Nancy Fox, Committee Clerk

Nancy Fox (Rep. Pat McElraft)

[redacted]m: Laura Holt-Kabel (Rep. Rick Catlin)
[redacted]t: Wednesday, July 15, 2015 10:40 AM
To: Rep. Pat McElraft
Cc: Nancy Fox (Rep. Pat McElraft)
Subject: <NCGA> House Environment Committee Meeting Notice for Tuesday, July 21, 2015 at 10:00 AM (Public Hearing)
Attachments: Add Meeting to Calendar_LINC_.ics

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTICE OF PUBLIC HEARING
2015-2016 SESSION

The **House Committee on Environment** will hold a **Public Hearing.**

DAY & DATE: Tuesday, July 21, 2015
TIME: **10:00 AM**
[redacted]**OCATION:** **643 LOB**

The views of interested parties will be heard concerning:

Discussion of Regulatory Reform Act of 2015. No vote taken.
Sign up to make comments at catlinla@ncleg.net. Please submit name, organization, topic of concern. Comme limited to 2 minutes.

Rep. Catlin will Chair.

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 765	Regulatory Reform Act of 2015.	Representative McElraft

[redacted]

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTICE OF PUBLIC HEARING
2015-2016 SESSION

The **House Committee on Environment** will hold a **Public Hearing.**

DAY & DATE: Tuesday, July 21, 2015
TIME: **10:00 AM**
LOCATION: **643 LOB**

The views of interested parties will be heard concerning:

Discussion of Regulatory Reform Act of 2015. No vote taken.
Sign up to make comments at catlinla@ncleg.net. Please submit name, organization, topic of concern. Comments limited to 2 minutes.

Rep. Catlin will Chair.

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 765	Regulatory Reform Act of 2015.	Representative McElraft

Respectfully,

Representative Rick Catlin, Co-Chair
Representative Pat McElraft, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 10:37 AM on Wednesday, July 15, 2015.

___ Principal Clerk
___ Reading Clerk – House Chamber

Laura Holt-Kabel (Committee Assistant)

House Committee on Environment
Tuesday, July 21, 2015, 10:00 AM
643 Legislative Office Building

AGENDA

Welcome and Opening Remarks
Rep. Catlin

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 765	Regulatory Reform Act of 2015.	Representative McElraft

Presentations

This meeting will be a public hearing on the Regulatory Reform Act of 2015 and no votes will be taken. Public comments will be allowed for 2 minutes per speaker.

Handouts
In the folder the packet contains:

Pg. 1-17 Current bill summary
Page 18- 76 Current bill
Last 3 pages are a letter from McGuire Woods.

Other Business

Adjournment

ATTENDANCE

House Environment Committee 7-21-2015

(Nancy Fox ___ and Laura Holt-Kabel ___)

DATES															
Rep. Rick Catlin, Chair	✓														
Rep. Pat McElraft, Chair	✓														
Rep. Jay Adams, Vice	✓														
Rep. Nathan Baskerville															
Rep. John Bradford	✓														
Rep. Bill Brawley	✓														
Rep. William Brisson															
Rep. Cecil Brockman															
Rep. Becky Carney															
Rep. Jeff Collins	✓														
Rep. Jimmy Dixon	✓														
Rep. Mike Hager	✓														
Rep. Pricey Harrison, Vice	✓														
Rep. Frank Iler	✓														
Rep. Verla Insko	✓														
Rep. Paul Leubke	✓														
Rep. Grier Martin	✓														
Rep. Chuck McGrady, Vice	✓														
Rep. Chris Millis	✓														
Rep. Bob Steinburg	✓														
Rep. Sarah Stevens															
Rep. Roger West	✓														
Rep. Larry Yarborough	✓														
Staff:															
Jeffrey Hudson	✓														
Mariah Matheson															
Jennifer McGinnis	✓														
Jennifer Mundt	✓														
Chris Saunders	✓														

HOUSE BILL 765:
Regulatory Reform Act of 2015

2015-2016 General Assembly

Committee:	House Environment	**Date:**	July 21, 2015
Introduced by:	Rep. McElraft	**Prepared by:**	Karen Cochrane-Brown, Erika Churchill, Jeff Hudson, Jennifer McGinnis, Chris Saunders, Staff Attorneys Jennifer Mundt Legislative Analyst
Analysis of:	Fourth Edition		

SUMMARY: House Bill 765 would amend a number of State laws related to business regulation, State and local government regulation, and environmental regulation.

PART I. ADMINISTRATIVE REFORMS

REPEAL OBSOLETE STATUTES

Section 1.1. would repeal obsolete provisions in the criminal law related to using profane or indecent language on public highways and refusing to relinquish a party telephone line in an emergency.

BURDEN OF PROOF IN CERTAIN CONTESTED CASES

Section 1.2. would clarify that the petitioner has the burden of proof in most contested cases and establishes that the State agency has the burden of proof in certain contested cases, including cases involving the imposition of civil fines or penalties and cases involving the demotion, suspension or discharge of a career State employee. The Joint Legislative Administrative Procedure Oversight Committee is directed to study whether there are other categories of cases in which the burden should be placed with the agency. This section would become effective when it becomes law and would apply to contested cases commenced on or after that date.

LEGISLATIVE APPOINTMENTS

Section 1.3. would amend the law governing legislative appointments to boards and commissions, whether by the General Assembly through the appointments bill or directly by the Speaker and the President Pro Tempore, to apply the following rules if the law requires a recommendation or nomination by a third party for the appointment:

- For consultations or recommendations of a third party:
    - The consultation or recommendation is discretionary and not binding.
    - The third party must submit the consultation or recommendation at least 60 days before expiration of the term or within 10 days of a vacancy.
    - Failure to submit the consultation recommendation within the time period is deemed a waiver of the opportunity.

- For appointments made from a list of nominees provided by a third party:
    - The third party must submit the recommendation at least 60 days before expiration of the term or within 10 days of a vacancy. This provision does not apply to appointments to the Legislative Ethics Committee.
    - Failure to submit nominees within the time limits is deemed a waiver of the opportunity.

These provisions would become effective when they become law and apply to recommendations, consultations, and nominations made on or after that date.

ALLOW ATTORNEYS' FEES WHEN THE STATE IS THE PREVAILING PARTY IN CERTAIN CIVIL ACTIONS AND CLARIFY AND STANDARDIZE THE REQUIREMENTS TO AWARD ATTORNEYS' FEES IN ACTIONS INVOLVING THE STATE

Section 1.4. would require attorneys' fees and costs be paid to the State when the State is the prevailing party and the proceeding:

- Contests the State's ability to construct improvements to real property based on environmental impact.
- Contests the State's issuance of a permit authorizing activity on real property based on environmental impact.

The attorneys' fees must be taxed as court costs against any law firm seeking relief against the State. Law firms may avoid liability if the named parties post a bond for the payment of attorneys' fees or if the named parties agree to reimburse the law firm.

The prevailing party must petition for fees within 30 days following final disposition of the case. If attorney's fees are awarded, the judge must issue a written order including the factual basis and amount of fees to be awarded.

This section would become effective September 1, 2015, and applies to all actions or other proceedings filed on or after that date.

OCCUPATIONAL LICENSING BOARD INVESTIGATORS AND INSPECTORS

Section 1.5. would amend the law governing occupational licensing boards to prohibit a board from contracting with or employing a person licensed by the board to serve as an investigator or inspector, if the person is actively practicing in the profession or occupation over which the board has jurisdiction. The section would not prohibit the board from hiring a licensee for other purposes or if the licensee is not actively working in the field.

NO FISCAL NOTE REQUIRED FOR LESS STRINGENT RULES

Section 1.6. would amend the process for the periodic review and expiration of existing rules under the Administrative Procedure Act. The section provides that if, during the readoption process, a rule is amended to impose a less stringent burden on regulated persons than the existing rule, the agency is not required to prepare a fiscal note for the rule.

APO TO MAKE RECOMMENDATIONS ON OCCUPATIONAL LICENSING BOARD CHANGES

Section 1.7. would direct the Joint Legislative Administrative Procedure Oversight Committee (APO) to review the recommendations contained in the Program Evaluation Division report, entitled "Occupational Licensing Agencies Should Not be Centralized, but Stronger Oversight is Needed," to determine how to improve oversight of occupational licensing boards. The section directs APO to

consult with various interested parties in conducting its review and to propose legislation to the 2016 Session of the 2015 General Assembly.

TECHNICAL CORRECTION

Section 1.8. would make a technical amendment to G.S. 20-116(g)(3) to rewrite the provision to eliminate duplicative lettering in accordance with coded bill drafting protocol.

PART II. BUSINESS REGULATION

EXEMPT SMALL BUSINESS ENTITIES BUYING OR SELLING ENTITY-OWNED PROPERTY

Section 2.1. would amend the Real Estate License Law to exempt the owners, officers, managers, and employees of a corporation, partnership, limited liability company, or the natural person owners of a closely held business entity from the requirement of obtaining a license in order to act as a real estate broker in connection with property owned or leased by the business. A closely held business entity is defined in the section as a limited liability company or a corporation with no more than two legal owners, at least one of whom is a natural person. The section also authorizes the officers, managers, and employees of a closely held business entity to act as the agent of another exempt business entity, without a license, if certain conditions relating to overlapping ownership are met. In this case, the closely held business entity must notify the Secretary of State, in writing annually of its legal name and physical address and the exemption is only effective if immediately following the completion of the transaction for which the exemption is claimed, the closely held business entity has a net worth equal to or exceeding the value of the transaction.

When a person claims an exemption under any of the provisions of this section, the person must disclose the following, in writing, to all parties to the transaction:

- That the person is not licensed as a real estate broker or salesperson.
- The specific exemption that applies.
- The legal name and physical address of the owner and of the closely held business acting as agent, if applicable.

The disclosure may be included on the face of the lease or contract executed under the exemption.

MANUFACTURED HOME LICENSE/CRIMINAL HISTORY CHECK

Section 2.2. would amend the law governing criminal history checks for applicants for manufactured home licenses to clarify that only applicants for initial licensure need consent to a criminal history record check. The section also clarifies that an applicant is a person applying for initial licensure as a manufactured home salesperson or a set-up contractor.

AMEND DEFINITION OF "EMPLOYEE" UNDER THE WORKERS' COMPENSATION ACT TO EXCLUDE VOLUNTEERS AND OFFICERS OF CERTAIN NONPROFIT CORPORATIONS AND ASSOCIATIONS

Section 2.3. would amend the definition of the term "employee" under the Workers' Compensation Act to exclude volunteers and officers of certain nonprofit corporations and associations. The new definition applies to nonprofits subject to the following acts: the Unit Ownership Act, the Condominium Act, the Planned Community Act, the Nonprofit Corporation Act, the Uniform Unincorporated Nonprofit Association Act, and any organization that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code. The section applies to persons who receive no remuneration for voluntary

service other than reasonable reimbursement for expenses incurred in connection with voluntary service, even if the person was elected or appointed and empowered as an executive officer, director, or committee member under the charter, articles, or bylaws of the nonprofit. If the nonprofit employs one or more persons who receive remunerations, the volunteer officers shall be counted solely for the purpose of determining the number of persons employed by the corporation. The provision does not apply to certain volunteer public safety workers who are currently covered by the definition of employee.

PART III. STATE AND LOCAL GOVERNMENT REGULATION

REDUCE STATE AGENCY MOBILE DEVICE REPORTING FREQUENCY
Section 3.1. would reduce the reporting requirement for State agencies with regard to the number, type, and use of mobile devices issued by the agency. Since 2011, agencies have been required to report to the Legislature and the Office of State Budget and Management on a quarterly basis. This provision would reduce the reporting requirement from quarterly to annually.

GOOD SAMARITAN EXPANSION
Section 3.3. would amend the criminal law to create an exception to the law against breaking or entering into or out of a railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft under certain circumstances. The following circumstances are not violations of the law:

- If the person committing the act does so in good faith to provide first aid or emergency health care, or because the person inside is in imminent danger of becoming unconscious, ill, or injured.
- Prompt decisions and actions in medical, other health care, or other assistance are required.
- Immediate health care or removal of the person is so reasonably apparent that any delay would seriously worsen the physical condition or endanger the life of the person.

This section would become effective September 1, 2015, and apply to offenses committed on or after that date.

Section 3.4. would create immunity from civil liability for damage to a railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft, if the damage occurred while a person was rendering emergency assistance to another person inside the conveyance. Immunity would be triggered if one or more of the following circumstances exist:

- If the person committing the act does so in good faith to provide first aid or emergency health care, or because the person inside is in imminent danger of becoming unconscious, ill, or injured.
- Prompt decisions and actions in medical, other health care, or other assistance are required.
- Immediate health care or removal of the person is so reasonably apparent that any delay would seriously worsen the physical condition or endanger the life of the person.

This section would become effective September 1, 2015, and apply to causes of action arising on or after that date.

DIRECT DMV TO ISSUE SUITABLY REDUCED SIZE REGISTRATION PLATES FOR MOTORCYCLES AND PROPERTY HAULING TRAILERS ATTACHED TO MOTORCYCLES

Section 3.5. would require, effective October 1, 2015, the Division of Motor Vehicles to issue a suitably reduced size registration plate, issued on either a multi-year or an annual basis, for a motorcycle, or for a trailer used as an attachment to the rear of a motorcycle.

STATUS FOR PROVIDERS OF MH/DD/SA SERVICES WHO ARE NATIONALLY ACCREDITED

Section 3.7. would authorize the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services to adopt rules for providers who have obtained national accreditation to be exempt from undergoing any routine monitoring that is duplicative of the oversight by the national accrediting agency. Providers would continue to be subject to inspection by the Secretary, provided the inspection is not duplicative of inspections required by the national accrediting agency.

CLARIFY THAT WHEN A NEW PERMIT OR TRANSITIONAL PERMIT IS ISSUED FOR AN ESTABLISHMENT, ANY PREVIOUS PERMIT FOR THAT SAME ESTABLISHMENT IN THAT LOCATION BECOMES VOID

Section 3.8. would amend the law governing the regulation of food and lodging establishments to allow the issuance of more than one permit for the same location if more than one establishment is operated in the same location and if each establishment satisfies all of the requirements of the law.

OPEN AND FAIR COMPETITION WITH RESPECT TO THE MATERIALS USED IN WASTEWATER, STORMWATER, AND OTHER WATER PROJECTS

Section 3.9 would amend the public contracting statutes to require public entities to consider all acceptable piping materials before determining which piping material should be used in the construction, development, financing, maintaining, rebuilding, improving, repairing, procuring, or operating of a water, wastewater, or stormwater drainage, unless sound engineering practices suggest that one type of acceptable piping material is more suitable for a particular project. A public entity is defined as a county, city, or other unit of local government.

This section would become effective October 1, 2015, and would apply to projects initiated on or after that date.

LICENSED SURVEYOR TO MARK BOUNDARIES OF STATE PROPERTIES

Section 3.10. would require State agencies to use a licensed professional engineer or surveyor when marking boundaries of State property under the care of that agency. Employees of the State agency would be exempt from the requirement, as provided in current law.

This section would become effective October 1, 2015, and applies to surveys conducted on or after that date.

AMEND UNDERGROUND DAMAGE PREVENTION REVIEW BOARD, ENFORCEMENT, AND CIVIL PENALTIES

Section 3.12. would amend the statute establishing the Underground Damage Prevention Review Board (Board). The Board is charged with reviewing reports of alleged violations of the Underground Utility Safety Act and recommending penalties for violation of the Act. Section 3.12 would make a number of clarifying changes to the Board's statute, including provisions for length of Board member terms, how vacancies are filled and members removed, quorum, how the Chair of the Board is appointed, and the process for how the Board recommends actions or penalties when violations of the Act occur.

CONFORM NORTH CAROLINA ALL-TERRAIN VEHICLE LAWS TO NATIONAL SAFETY AND DESIGN STANDARDS FOR YOUTH OPERATORS

Section 3.13 would amend North Carolina's all-terrain vehicle laws to conform to the American National Standards Institute/Specialty Vehicle Institute of America (ANSI/SVIA) design standard. Under current law, there are different age restrictions on riders of all-terrain vehicles, with criteria for riders of 8, 12, and 16 years of age. Under the national standards, different all-terrain vehicles are approved for use by riders of 6, 10, 12, 14, and 16 years of age. All riders under 16 years of age must be under adult supervision regardless of the age restriction on the vehicle.

PART IV. ENVIRONMENTAL AND NATURAL RESOURCES REGULATION

ENVIRONMENTAL SELF-AUDIT PRIVILEGE AND LIMITED IMMUNITY

Section 4.1. would establish a disclosure privilege for environmental audit reports that would generally prevent the use of the reports as evidence in civil or administrative proceedings. The provision would also prohibit persons who conducted or participated in an audit or who significantly reviewed an audit report from being compelled to testify regarding the audit report or a privileged part of the audit, except in certain circumstances. In addition, the provision would generally establish immunity for owners and operators of facilities from imposition of civil and administrative penalties for a violation of environmental laws discovered through the conduct of an environmental audit and voluntarily disclosed to an enforcement agency in conformance with requirements established by the provision. The provision specifically provides, however, that waiver of penalties and fines must not be granted until the applicable enforcement agency has certified that the violation was corrected within a reasonable period of time (i.e., the enforcement agency retains discretion to assess penalties and fines for the violation until it is corrected). An owner or operator of a facility who makes a voluntary disclosure of a violation of environmental laws discovered through an audit would be limited to exercise the privilege or immunity only once in a 2-year period, not more than twice in a 5-year period, and not more than three times in a 10-year period.

The provision would not apply to activities regulated under the Coal Ash Management Act of 2015.

The section would require the Department of Environment and Natural Resources (DENR) to: (i) submit these environmental self-audit privilege and immunity provisions to the United States Environmental Protection Agency (USEPA) and request the USEPA's approval to implement the provisions in concert with the State's legal authority to continue administering delegated, approved, or authorized federal environmental programs within the State; and (ii) report to the Environmental Review Commission (ERC) no later than September 1, 2015, and monthly thereafter, until approval to implement these provisions is received from USEPA. The section would become effective upon the date such approval is received from USEPA.

REPEAL RECYCLING REQUIREMENTS FOR DISCARDED COMPUTER EQUIPMENT AND TELEVISIONS

Section 4.2. would repeal the provisions in the General Statutes that require manufacturers to recycle computer equipment and televisions discarded by consumers in the State, and repeal DENR's obligation to submit an annual report on this matter to the General Assembly.

PROHIBIT IMPLEMENTATION AND ENFORCEMENT OF FEDERAL STANDARDS FOR WOOD HEATERS AND FOR FUEL SOURCES THAT PROVIDE HEAT OR HOT WATER TO A RESIDENCE OR BUSINESS

Sections 4.3.(a) and 4.3.(b) Pursuant to G.S. 143-215.107, the Environmental Management Commission (EMC) is empowered to develop and adopt standards and plans necessary to implement the

requirements of the federal Clean Air Act and regulations adopted by the USEPA. **Sections 4.3(a) and 4.3(b)** would provide for the following two exceptions to the EMC's authority to develop and adopt standards and plans to implement federal air quality standards by prohibiting the EMC and DENR from:

1. Issuing rules to implement regulations adopted by the USEPA after May 1, 2014, to limit emissions from wood heaters or enforce against a manufacturer, distributor, or consumer of a wood heater subject to federal regulation. "*Wood heater*" is defined by this section to mean: a fireplace, wood stove, pellet stove, wood-fired hydronic heater, wood-burning forced-air furnace, or masonry wood heater or other similar appliance designed for heating a residence or business or for heating water for use by a residence through the combustion of wood or products substantially composed of wood.
2. Enforcing any federal air emissions standard adopted by the USEPA for the regulation of fuel combustion that is used directly or indirectly to provide hot water or comfort heating to a residence or a comfort heating to a business.

AMEND PROCESS FOR STATE ADOPTION OF FEDERAL AIR QUALITY STANDARDS

Sections 4.4, 4.5, and 4.6 would modify the implementation of the State's air pollution control rules for national emissions standards for hazardous air pollutants, maximum achievable control technology, and new source performance standards (15A NCAC 02D .1110, .1111, and .0524, respectively) to establish a new process by which proposed federal standards are adopted into the Administrative Code. Instead of automatically enforcing new federal standards, the bill would prohibit the EMC from adopting new standards except by a three-fifths vote of the Commission, to include the new standards in the Administrative Code. Standards adopted according to this process would then be subject to legislative review.

Section 4.6A effective January 1, 2016, would prohibit the EMC from enforcing previously adopted federal national emissions standards for hazardous air pollutants, maximum achievable control technology, and new source performance standards until the EMC readopts the standards using the process outlined above

AMEND RISK-BASED REMEDIATION PROVISIONS

Section 4.7. would amend the law governing risk-based cleanup of contaminated sites, originally enacted in 2011, that authorized use of risk-based cleanup[1] for certain contaminated sites using site-specific cleanup standards designed to protect public health, safety, and welfare and the environment based on the current and anticipated future use of a site. The 2011 legislation included a number of limitations on a site's eligibility for risk-based cleanup, including:

- Only "industrial sites" were made eligible. "Industrial sites" as defined under the legislation include those where the property is or has been used primarily for manufacturing or other industrial activities for the production of a commercial product. This includes a property used primarily for the generation of electricity.
- Only sites where the release of contamination was reported to DENR prior to March 1, 2011, were made eligible.

[1] Generally, cleanup of environmental contamination must be performed to meet unrestricted use standards, meaning contaminant concentrations present at a location are acceptable for all uses; are protective of public health, safety, and welfare and the environment; and comply with an applicable program's standards established by statute or rule adopted by the Environmental Management Commission, the Commission for Public Health, or DENR. Risk-based cleanup, however, allows cleanup based on site-specific risk factors, which are generally not as stringent as the applicable unrestricted use standards.

- Only sites where there was no migration of contaminants off the industrial site were made eligible.

The bill would eliminate these limitations.

With respect to the cleanup of sites where contaminants have migrated off the contaminated (source) site, the bill allows the person who proposes to conduct risk-based remediation on the contaminated site to use risk-based remediation for the off-site properties only if the person who proposes to conduct the remediation on the contaminated site: (i) provides the owner of the contaminated off-site property with a copy of the governing law and a publication produced by DENR, pursuant to requirements of the bill as described below, that informs owners of contaminated off-site property of the issues and liabilities associated with the contamination on their property; and (ii) obtains written consent from the owner of the contaminated off-site property for the person to remediate the contaminated off-site property using site-specific remediation standards. Notwithstanding an off-site owner's consent, the bill provides that any site-specific remediation conducted must not allow concentrations of contaminants on the off-site property to increase above the levels present on the date the written consent is obtained.

The bill would require DENR, in consultation with the Consumer Protection Division of the North Carolina Department of Justice and the North Carolina Real Estate Commission, to develop and make available a publication entitled "Contaminated Property: Issues and Liabilities" to inform owners of contaminated off-site property of the issues and liabilities associated with the contamination on their property. In particular, the publication would be required to provide information on the nature of risk-based remediation and how it differs from remediation to unrestricted use standards, potential health impacts that may arise from residual contamination, as well as identification of liabilities that arise from contaminated property and associated issues, including potential impacts to real estate transactions and real estate financing.

In addition, with respect to such sites, the bill provides that, if, after issuance of a no further action determination, DENR determines that additional remedial action is required for a contaminated off-site property, the responsible party (owner of the contaminated site) would be liable for the additional remediation deemed necessary.

The bill would also: (i) amend the legislation enacted in 2011 **to enact additional exemptions from** the use of risk-based remediation for the facilities subject to the Coal Ash Management Act of 2014; and (ii) authorize DENR to consider, in lieu of imposition of land-use restrictions already permissible under current law, reliance on other State or local land-use controls.

Section 4.8. would direct DENR, no later than January 1, 2016, to develop all of the following:

- Internal processes to govern remediation of contaminated industrial sites using risk-based remediation that are consistent across all programs or requirements.
- A coordinated program and processes for remediation of contaminated industrial sites using risk-based remediation that are subject to more than one program or requirement.
- Reforms to expand the role, and otherwise enhance the use of, registered environmental consultants approved to implement and oversee sites using risk-based remediation .

DENR would be required to report to the ERC no later than April 1, 2016, on its activities conducted

pursuant to this section, together with any pertinent findings or recommendations, including any legislative proposals that it deems advisable.

AMEND THE LAW GOVERNING BROWNFIELDS REDEVELOPMENT TO CONFORM CLASSES OF PERSONS ELIGIBLE TO PARTICIPATE TO THOSE AUTHORIZED UNDER FEDERAL LAW

Section 4.9. would amend the definition of "prospective developer" included in the statutes under the Brownfields Property Reuse Act (Act) of 1997.

A Brownfields site is any real property that is abandoned, idled, or underutilized where environmental contamination, or perceived environmental contamination, hinders redevelopment. This program was enacted to encourage and facilitate redevelopment of these sites by removing barriers to redevelopment posed by a prospective developer's (PD's) potential liability for clean-up costs. To be eligible for participation in the Brownfields Program (Program), a PD must not have caused or contributed to contamination at a site. The Act does not obviate practical or necessary remediation of properties under any State or federal cleanup program, but it does authorize DENR to work with PDs toward the safe redevelopment of sites, and to provide PDs regulatory flexibility and liability protection that would not be available to parties who actually caused or contributed to contamination at a site.

If a site is included in the Brownfields Program, DENR will enter into an agreement with the developer that is in effect a covenant not-to-sue contingent on the developer making the site suitable for the reuse proposed. Additionally, a Brownfields agreement obtained from the Program entitles the developer to a property tax exclusion on the improvements made to the property for a period of five years, which can more than pay for assessment and cleanup activities on many projects. Site remedies (cleanup requirements) under the Program are also less costly and time consuming than they would be for a party who caused or contributed to the contamination, as site remedies under the Brownfields Program are designed to prevent exposure and make the site suitable for reuse, rather than meet environmental standards required under the traditional cleanup programs.

Under current law "prospective developer" means any person with a bona fide, demonstrable desire to either buy or sell a Brownfields property for the purpose of developing or redeveloping that brownfields property and who did not cause or contribute to the contamination at the brownfields property.

The bill would change the definition of "prospective developer" to include all the classes of persons eligible for liability protection under the federal Brownfields program, as described below:

- **Bona fide prospective purchaser (BFPP)** liability protection allows persons to acquire property knowing, or having reason to know, of contamination on the property, and still be eligible for Brownfields treatment, if, among other things, they:
  - Acquire contaminated property after January 11, 2002.
  - Perform "all appropriate inquiries" prior to acquiring the property, and demonstrate "no affiliation" with a liable party, and meet other threshold criteria.
  - Satisfy other continuing obligations, including compliance with land use restrictions and not impeding the effectiveness or integrity of institutional controls, etc.

- **Contiguous Property Owners (CPO)** liability protection is for owners of property that is not the source of the contamination (i. e., property is "contiguous" to, or otherwise similarly situated to, a facility that is the source of contamination found on their property). CPOs must also perform all appropriate inquiry prior to purchase, but they must buy without knowing, or having reason to know, of contamination on the property.

- **Innocent Landowners (ILOs)** liability protection is for owners of property that is the source of the contamination, but purchased without knowing, or having reason to know, of contamination on the property, after having performed all appropriate inquiries.

BFPPs or CPOs must not be potentially liable or affiliated with any other person who is potentially liable for the site response costs. "Affiliated with" includes direct and indirect familial relationships and many contractual, corporate, and financial relationships. ILOs cannot have a contractual relationship with a liable party.

This section would become effective July 1, 2015, and apply to notices of Intent to Redevelop a Brownfields Property filed on or after that date.

ELIMINATE OUTDATED FEES RELATED TO SOLID WASTE MATTERS

Section 4.10.(a) would repeal a tax imposed on publishers of newsprint publications of $15 per each ton by which the publisher's recycled content tonnage falls short of the tonnage of recycled postconsumer recovered paper needed to achieve the applicable minimum recycled content percentage as established in the statute.

Section 4.10.(b) would repeal a provision that allows DENR to collect a fee for registration of persons transporting, collecting, or recycling used oil.

REPEAL ENERGY AUDIT REQUIREMENTS

Section 4.11. would repeal the requirement for the Department of Administration to develop an energy audit and procedure to perform energy audits for each State agency or State institution of higher learning. This section would also repeal any corresponding reporting requirements.

DELETE OR REPEAL VARIOUS ENVIRONMENTAL AND NATURAL RESOURCES REPORTING REQUIREMENTS

Section 4.12. would repeal or amend various environmental and natural resources reporting requirements as follows:

- Repeal the annual joint report from the Chairs of the Marine Fisheries Commission and the Wildlife Resources Commission to the Joint Legislative Commission on Governmental Operations (Gov Ops) on the Marine Resources Fund and the Endowment Fund.
- Repeal the Secretary of Environment's annual progress report to Gov Ops on developing and implementing Fishery Management Plans.
- Repeal the annual One-Stop Permitting Program and Express Permitting Program report from DENR to Fiscal Research and the ERC.
- Repeal the annual report from the Division of Aquariums in DENR to Gov Ops, NER Appropriations Subcommittees, and Fiscal Research on the North Carolina Aquariums Fund.
- Repeal the annual report by the Office of State Budget and Management and the Division of Waste Management to Gov Ops on the preceding fiscal year concerning the allocation of loans authorized under the Solid Waste Management Loan Program.
- Repeal the Advisory Committee report for the Coordination of Waterfront Access to the Joint Legislative Seafood and Aquaculture Commission (The Commission was terminated in 2011).

ON-SITE WASTEWATER AMENDMENTS AND CLARIFICATIONS

CURRENT LAW: G.S. 130A-333 through G.S. 130A-342 provides for a three-step process to site, install, and operate an on-site wastewater system. First, an application for an improvement permit must be submitted to the local health department that includes a plat or site plan, a description of the facility the proposed site is to serve, and characteristics of the proposed wastewater system. Once an improvement permit is issued, the local health department must conduct a field investigation to ensure that the system can be installed and operated in compliance with State laws and rules. If the local health department determines that the system can be installed adequately, the local health department issues an authorization for wastewater system construction. This authorization must be obtained before a building permit will be granted and before construction of the system or the structure can begin. After the system has been installed, the local health department conducts an in-place inspection to ensure the system was installed in compliance with the improvement permit, the construction authorization, and applicable rules. If the local health department determines that the installed system is in compliance, an operation permit will be issued that allows the system to be placed into operation. The operation permit is valid for as long as the system is operating properly and must be obtained prior to receiving permanent electrical power hookup and an occupancy permit.

Sections 4.14.(a) through 4.14.(e) of the bill would amend G.S. 130A-333 through G.S. 130A-342 by enacting an alternative process – the private option permit – by which a professional engineer may design, construct, install, and prepare for operation, a new on-site wastewater system without requiring the oversight or approval of a local health department as follows:

Section 4.14.(a) defines the "***private option permit***" (POP) to mean the approval of an on-site wastewater system by a professional engineer who has both expertise and education in civil or environmental engineering and who has designed the wastewater system acting under the authority of the owner thereof.

Section 4.14.(b) (i) authorizes licensed soil scientists (as defined in Chapter 89F of the General Statutes), in addition to local health department staff, to evaluate the soil conditions and site features of any site proposed for new wastewater systems; (ii) establishes a system for an owner of a wastewater system or the Department of Health and Human Services (DHHS) to file written complaints against professional engineers or licensed soil scientists citing failure to adhere to rules applicable to wastewater systems; and (iii) makes conforming changes to implement the POP.

Section 4.14(c) creates a new section in Article 11 of Chapter 130A of the General Statutes authorizing the utilization of the private option permit (POP) for a professional engineer, under the legal authority of the owner of a proposed wastewater treatment system, to prepare drawings, specifications, plans, and reports that are certified and stamped with the professional engineer's seal for the design, construction, operation, and maintenance of the wastewater system. Under the POP, a professional engineer would be authorized, at the engineer's discretion, to employ pretreatment technologies not yet approved in this State. An owner or engineer who seeks to utilize the POP must submit a ***notice of intent to construct*** (NOI to construct) to the local health department (LHD) prior to beginning construction, siting, or relocation of a wastewater system.

DHHS must develop a ***common form for the NOI to construct*** that includes information about: the owner, the engineer, the licensed soil scientist, proof of insurance or appropriate liability coverage of at least $1 million per claim, a description of the wastewater system and the facility it is proposed to serve, design flow and characteristics, the soils evaluation and site conditions, and a plat.

The LHD must determine whether a NOI to construct is ***complete*** within 14 days of receipt from the owner or engineer. A determination of completeness by the LHD means that the NOI to construct includes all of the components as required on the common form. The owner or engineer must submit a duplicate copy of the NOI to construct to DHHS for proposed wastewater systems that collect, treat, and dispose of industrial wastewater, or that treat more than 3,000 gallons per day.

To satisfy the requirements of the POP, the engineer or owner, as applicable, must: (i) use recognized principles and practices of engineering and applicable rules of the Commission for Public Health (Commission) in the calculations and design of the wastewater system; (ii) employ a licensed soil scientist to evaluate soil conditions and site features; (iii) be responsible for all aspects for the construction and installation of the wastewater system, including the selection and oversight of an on-site wastewater system contractor certified in accordance with Article 5 of Chapter 90A of the General Statutes; (iv) provide for the installation of an accepted wastewater system, as approved, in lieu of a conventional wastewater system under certain conditions; and (v) comply with any and all State, local, and federal laws and regulations that pertain to the proposed wastewater system.

Under the POP, the licensed soil scientist must assume all ***liability*** for the findings of the soils evaluation and soils report. The professional engineer must assume all liability for the engineer's scope of work for the wastewater system. The owner of the wastewater system must assume all liability for the proper operation and management of the wastewater system. Once the owner has commenced operation of the wastewater system, neither the professional engineer or licensed soil scientist may be held liable for any damages resulting from unapproved changes made to the wastewater system by the owner. DHHS and LHD's are not liable for any wastewater systems approved under the POP, however, may at any time, conduct an inspection of the wastewater system.

In order to operate and maintain a wastewater system under the POP, the professional engineer must: (i) establish a written operations and management program and provide the written program to the owner and (ii) assist the owner in selecting a certified water pollution control system operator, an operator that is required to be under contract with the owner and chosen from a list maintained by the Division of Water Resources in DENR.

A ***post-construction conference*** with all affected parties, including the LHD, must be held prior to operation of the wastewater system. In addition, prior to commencing operation of the system and after the post-construction conference, the following ***documentation and reporting*** must be completed:

- Signed, sealed, and dated copies of the engineer's report must be delivered to the owner of the wastewater system.
- Upon review of the engineer's report, the owner of the wastewater system must sign and notarize the report as having been received.
    - The owner must submit a certified copy of the engineer's report, a copy of the written operations and management program, the required fees, and a notarized letter documenting the owner's acceptance of the system from the professional engineer. The owner must also furnish these documents to DHHS for wastewater systems that collect, treat, and dispose of industrial wastewater or that treat more than 3,000 gallons per day.

Upon receipt of the required documentation and fees, the LHD must issue a letter of confirmation that states the documents and information contained therein have been received and that the ***wastewater system may operate*** in accordance with rules adopted by the Commission.

This section authorizes a LHD to ***assess fees***, of up to 10% of the fees established to obtain an improvement permit, an authorization to construct, or an operations permit within the LHD's on-site wastewater program, for the use of staff to conduct inspections, support participation at post-construction meetings, and to archive the private permit with the register of deeds or other recordation of the wastewater system as required.

In addition, this section directs the Commission to ***adopt rules*** to implement the POP and directs the Commission to ***report,*** beginning January 1, 2017, and annually thereafter, to the Joint Legislative

Oversight Committee on Health and Human Services (HHS Oversight) and the ERC on the implementation and effectiveness of the POP.

Sections 4.14.(d) and 4.14.(e) of the bill make conforming changes to the statutes governing the operation of a wastewater system to include requiring applicable documentation under the POP prior to receiving permanent electrical power service and an occupancy permit.

Section 4.14.(f) of the bill directs the Commission, in consultation with DHHS, local health departments, and industry stakeholders to study minimum on-site wastewater system inspection frequency as established in the administrative code to evaluate the feasibility and desirability of eliminating duplicative inspections of on-site wastewater systems, and to report its findings and recommendations to HHS Oversight and the ERC by January 1, 2016.

Section 4.14.(g) of the bill (i) makes conforming changes to the statute governing improvement permits and authorizations for wastewater system construction to incorporate the POP; (ii) provides that improvement permits or authorizations to construct must not be affected by a change in ownership of the wastewater system; (iii) provides that an improvement permit and an authorization for wastewater system construction must remain valid once issued, without expiration, provided the design flow and characteristics and description of the facility the wastewater system will serve remain unchanged; and (iv) directs the LHD to maintain a database of proposed wastewater systems for which both the improvement permit and the authorization for wastewater construction have been obtained, but no activity related to the construction or installation of the site has begun in the five years immediately following approval. For those systems identified, the LHD must notify the applicant of any alternative wastewater system technologies and options that may be employed by the applicant in lieu of the system already permitted and authorized by the department.

Section 4.14.(h) of the bill amends the criteria for operators of permitted systems to provide that systems with a design flow of less than 1,500 gallons per day must be operated by a certified Subsurface Water Pollution Control System Operator and authorizes the Commission to establish additional standards for systems with a design flow of 1,500 gallons or more per day.

Section 4.14.(i) of the bill provides that this section is effective when it becomes law and that the Commission must adopt rules to implement the POP no later than June 1, 2016. This section further provides that no person may utilize the POP until such time as the rules adopted by the Commission become effective.

AMEND APPROVAL OF ON-SITE WASTEWATER SYSTEMS

Section 4.15.(a) of the bill would amend the statute pertaining to the approval of on-site wastewater systems technologies. This section would:

- Rename "controlled demonstration system" as a "***provisional wastewater system***" and provide that a provisional system includes any system or component that is acceptable to DHHS or has been approved by a nationally recognized certification body for at least one year. "***Nationally recognized certification body***" is defined to mean NSF International; the International Association of Plumbing and Mechanical Officials; the Bureau of Normalization of Quebec; or another certification body for wastewater systems or system components accredited by the American National Standards Institute or the Standards Council of Canada.
- Repeal the subsection on "experimental systems."
- Amend the processes by which a wastewater system achieves either provisional or innovative wastewater system status.

- Repeal the subsection authorizing DHHS to form a technical advisory committee (I & E Committee) comprised of specialists who have training and expertise related to on-site subsurface wastewater systems to assist in evaluating applications for approval.
- Repeal the five-year warranty required for certain nitrification trenches for innovative or accepted wastewater systems handling untreated effluent.
- Make conforming changes to the fee schedule for DHHS review or modification of wastewater systems.

Section 4.15.(b) of the bill directs the Commission to review and amend rules to implement the changes above.

Section 4.15.(c) of the bill directs the Commission to report, beginning October 1, 2015, and every quarter thereafter until all rules are adopted, as to its progress of adopting and amending rules pursuant to Sections 4.14 and 4.15 of this act to HHS Oversight and the ERC.

Section 4.15.(d) of the bill directs the Commission, in consultation with DHHS, local health departments, and industry stakeholders, to study the costs and benefits of requiring treatment standards above those that are established by nationally recognized standards, and report its findings and recommendations to HHS Oversight and the ERC on or before January 1, 2016.

CONTESTED CASES FOR AIR PERMITS

Section 4.17. would amend the process for filing a contested case regarding an air quality permit decision of the EMC by:

- Providing that the filing for a contested case by a permit applicant or permittee would stay the EMC's decision while the filing for a contested case by a person who is not the permit applicant or permittee would not automatically stay the EMC's decision.
- Limiting these contested case provisions to permit application decisions rather than other types of permit decisions, such as permit modification, suspension, or revocation.

AMEND ISOLATED WETLANDS LAW

Section 4.18. would make the following changes to the regulation of isolated wetlands in the State:

- Provide that the only types of isolated wetlands the State will regulate are Basin Wetlands and Bogs and that the State will not regulate isolated man-made ditches or ponds constructed for stormwater management purposes or any other man-made isolated pond.
- Provide that the regulatory threshold for impacts to isolated wetlands is one acre. Currently, the regulatory thresholds are one acre for isolated wetlands east of I95 and 1/3 acre for isolated wetlands west of I95.
- Provide that the mitigation requirements for impacts to isolated wetlands apply only to the amount of impact that exceeds the regulatory threshold of one acre.
- Provide that impacts to wetlands that aren't isolated wetlands will not be combined with impacts to isolated wetlands to determine whether the regulatory thresholds have been reached.

AMEND COASTAL STORMWATER REQUIREMENTS

Section 4.19. would make the following changes to the State's coastal stormwater management laws effective July 1, 2016:

- Increase the threshold for coastal stormwater management requirements to apply to nonresidential development from 10,000 square feet of built upon area to an acre or more of land-disturbing activity.
- Increase the amount of allowable built upon area for less stringent stormwater management requirements from 12% of a lot to 24% of a lot.
- Provide that as necessary to comply with federal stormwater management requirements, the rescission of designations of local governments within the 20 Coastal Counties as Phase 2 municipalities, is repealed.

Section 4.19 would also direct DENR to evaluate the water quality of surface waters in the Coastal Counties and consider the appropriate levels of built-upon area and stormwater management requirements necessary to protect water quality in the Coastal Counties. DENR would report the results of the study to the ERC no later than April 1, 2016.

STUDY EXEMPTING LINEAR UTILITY PROJECTS FROM CERTAIN ENVIRONMENTAL REGULATIONS

Section 4.21. would direct DENR to study whether and to what extent activities related to the construction, maintenance, or removal of linear utility projects should be exempt from certain environmental regulations. DENR will report the results of the study to the ERC no later than March 1, 2016.

REPEAL DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES IDLING RULES

Section 4.24. would direct the Secretary of Environment and Natural Resources to repeal the Heavy-Duty Vehicle Idling Restrictions rules by December 1, 2015, and provide that until the effective date of the repeal of the rule, DENR, the EMC, or any other political subdivision of the State cannot implement or enforce the rule.

AMBIENT AIR MONITORING

Section 4.25. would direct DENR to review its ambient air monitoring network and request from the United States Environmental Protection Agency (EPA) the authority to remove any monitor not required by federal law. This section would also direct DENR, no later than September 1, 2016, to discontinue all ambient air monitors not required by federal law and for which EPA approval for discontinuance is not required. This section would not preclude DENR from installing temporary ambient air monitors as part of an investigation of a suspected air quality violation or in response to an emergency causing an imminent danger to human health and safety.

DIVISION OF AIR QUALITY NOTICE REQUIREMENTS

Section 4.27. would reduce the notice period for consent orders related to air pollution from 45 days to 30 days and would provide that notice of a consent order or a public meeting on a consent order would be given on DENR's website rather than in a newspaper having general circulation in the county in which the air pollution originated.

DISCLOSURE OF PERSONAL IDENTIFYING INFORMATION

Section 4.29. would require the Wildlife Resources Commission and the Division of Marine Fisheries to treat email addresses like they treat other forms of personal identifying information, such as a person's mailing address, residence address, date of birth, and telephone number.

PROVIDE REGULATORY RELIEF BY INCREASING THRESHOLDS FOR MITIGATION OF LINEAR STREAM IMPACTS

Section 4.30. would increase the threshold for when stream mitigation for loss of streams is required from 150 linear feet of streambed to 300 linear feet of streambed and would provide that a 1:1 ratio of mitigation may only be required for loss of streambed greater than 300 linear feet.

PROHIBIT THE REQUIREMENT OF MITIGATION FOR IMPACTS TO INTERMITTENT STREAMS

Section 4.31. would provide that, except as required by federal law, DENR could not require mitigation for impacts to intermittent streams.

PIGEON HUNTING

Section 4.32. would designate that pigeons are wild birds for the purposes of jurisdiction and regulation by the Wildlife Resources Commission (Commission). The Commission currently excludes pigeons from the definition of wild birds. This designation would allow pigeon hunting in the State.

WILDLIFE RESOURCES COMMISSION STUDIES

Section 4.33. would direct the Wildlife Resources Commission (Commission) to review the methods and criteria by which it adds, removes, or changes the status of animals on the State Protected animal list and compare these to federal regulations and the methods and criteria of other States in the region. This section would also direct the Commission to review the State's policies for addressing introduced species and make recommendations for improving these policies. The Commission would be required to report its findings to the ERC by March 1, 2016.

Section 4.34. would direct the Commission to establish a coyote management plan to address the impacts of coyotes in this State and the threats that coyotes pose to citizens, industries, and populations of native wildlife species within the State. The Commission would be required to report its findings and recommendations, including any proposed legislation to address overpopulation of coyotes, to the ERC by March 1, 2016.

Section 4.35. would direct the Commission to establish a pilot coyote management assistance program in Mitchell County, which would document and assess private property damage associated with coyotes; evaluate effectiveness of different coyote control methodologies, including lethal removal; and evaluate potential for a scalable statewide coyote assistance program. The Commission would be required to submit an interim report on the progress of the pilot program to the ERC by March 1, 2016, and a final report by January 1, 2017.

ANIMAL WELFARE HOTLINE AND COURT FEE TO SUPPORT THE INVESTIGATION OF ANIMAL CRUELTY VIOLATIONS

Section 4.36. would direct the Attorney General to establish and publicize the "NC Pets We Care Hotline" to receive reports of allegations of animal cruelty or violations of the Animal Welfare Act against animals under private ownership. An individual who makes a report to the hotline would be required to disclose his or her name and telephone number, and any other information the Attorney General may require. When the Attorney General receives allegations of activity involving cruelty to animals under private ownership, the Attorney General's office would be required to refer the allegations to the appropriate local animal control agency. When the Attorney General receives allegations of activity involving a violation of the Animal Welfare Act against animals under private ownership, the

Attorney General's office would be required to refer the allegations to the Department of Agriculture and Consumer Services. The Attorney General would be required to maintain a record of the total number of reports received on the hotline and the number of reports received against any individual on the hotline. This section would also create a $250 court fee to be imposed on defendants convicted of animal cruelty or Animal Welfare Act violations, to be remitted to the general fund of the local governmental unit that investigated the crime for support of local animal control authorities in the investigation of animal cruelty or Animal Welfare Act violations.

AMEND STORMWATER MANAGEMENT LAW

Section 4.37. would make the following changes to the regulation of stormwater in the State:

- Extend from July 1, 2016 to November 1, 2016, the deadline for the EMC to adopt rules to implement fast-track permitting for stormwater management systems.
- Direct the ERC, with the assistance of DENR, to review and consider reorganization of State statutes, session laws, rules, and guidance documents related to stormwater management. The ERC must submit any legislative recommendations to the 2016 Regular Session of the General Assembly.

STUDY FLOOD ELEVATIONS AND BUILDING HEIGHT REQUIREMENTS

Section 4.38. would direct the Department of Insurance, the Department of Public Safety, and the Building Code Council to jointly study how flood elevations and building heights for structures are established and measured in the coastal region of the State. The Departments and the Council would specifically consider how flood elevations and coastal building height requirements affect flood insurance rates and how height calculation methods might be made more consistent and uniform in order to provide flood insurance rate relief. The agencies would jointly report the results of the study to the 2015 General Assembly no later than January 1, 2016.

PART V. SEVERABILITY CLAUSE AND EFFECTIVE DATE

Section 5.1. would add a severability clause to the bill.

Section 5.2. would provide that the bill would be effective when it becomes law, except as otherwise specified.

HOUSE BILL 765

Senate Agriculture/Environment/Natural Resources Committee Substitute Adopted 6/29/15
Senate Finance Committee Substitute Adopted 6/30/15
Fourth Edition Engrossed 7/2/15

Short Title: Regulatory Reform Act of 2015. (Public)

Sponsors:

Referred to:

April 15, 2015

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FURTHER REGULATORY RELIEF TO THE CITIZENS OF NORTH CAROLINA BY PROVIDING FOR VARIOUS ADMINISTRATIVE REFORMS, BY ELIMINATING CERTAIN UNNECESSARY OR OUTDATED STATUTES AND REGULATIONS AND MODERNIZING OR SIMPLIFYING CUMBERSOME OR OUTDATED REGULATIONS, AND BY MAKING VARIOUS OTHER STATUTORY CHANGES.

The General Assembly of North Carolina enacts:

PART I. ADMINISTRATIVE REFORMS

REPEAL OBSOLETE STATUTES

SECTION 1.1. The following statues are repealed:

(1) G.S. 14-197. Using profane or indecent language on public highways; counties exempt.

(2) G.S. 14-401.8. Refusing to relinquish party telephone line in emergency; false statement of emergency.

BURDEN OF PROOF IN CERTAIN CONTESTED CASES

SECTION 1.2.(a) Article 3 of Chapter 150B of the General Statutes is amended by adding a new section to read:

"**§ 150B-25.1. Burden of proof.**

(a) Except as otherwise provided by law or by this section, the petitioner in a contested case has the burden of proving the facts alleged in the petition by a preponderance of the evidence.

(b) In a contested case involving the imposition of civil fines or penalties by a State agency for violation of the law, the burden of showing by a preponderance of the evidence that the person who was fined actually committed the act for which the fine or penalty was imposed rests with the State agency.

(c) The burden of showing by a preponderance of the evidence that a career State employee subject to Chapter 126 of the General Statutes was discharged, suspended, or demoted for just cause rests with the agency employer."

SECTION 1.2.(b) The Joint Legislative Administrative Procedure Oversight Committee shall study whether there are other categories of contested cases in which the burden of proof should be placed with the agency.

SECTION 1.2.(c) This section is effective when this act becomes law and applies to contested cases commenced on or after that date.

LEGISLATIVE APPOINTMENTS

SECTION 1.3.(a) G.S. 120-121 is amended by adding two new subsections to read:

"(e) The following applies in any case where the Speaker of the House of Representatives or the President Pro Tempore of the Senate is directed by law to make a recommendation for an appointment by the General Assembly, and the legislator is also directed to make the recommendation in consultation with or upon the recommendation of a third party:

(1) The recommendation or consultation is discretionary and is not binding upon the legislator.

(2) The third party must submit the recommendation or consultation at least 60 days prior to the expiration of the term or within 10 business days from the occurrence of a vacancy.

(3) Failure by the third party to submit the recommendation or consultation to the legislator within the time periods required under this subsection shall be deemed a waiver by the third party of the opportunity.

(f) The following applies in any case where the Speaker of the House of Representatives or the President Pro Tempore of the Senate is directed by law to make a recommendation for an appointment by the General Assembly, and the legislator is also directed to make the recommendation from nominees provided by a third party:

(1) The third party must submit the nominees at least 60 days prior to the expiration of the term or within 10 business days from the occurrence of a vacancy.

(2) Failure by the third party to submit the nomination to the legislator within the time periods required under this subsection shall be deemed a waiver by the third party of the opportunity."

SECTION 1.3.(b) Article 16 of Chapter 120 of the General Statutes is amended by adding a new section to read:

"**§ 120-124. Appointments made by legislators.**

(a) In any case where a legislator is called upon by law to appoint a member to a board or commission upon the recommendation of or in consultation with a third party, the recommendation or consultation is discretionary and is not binding upon the legislator. The third party must submit the recommendation or consultation at least 60 days prior to the expiration of the term or within 10 business days from the occurrence of a vacancy.

(b) In any case where a legislator is called upon by law to appoint a member to a board or commission from nominees provided by a third party, the third party must submit the nominees at least 60 days prior to the expiration of the term or within 10 business days from the occurrence of a vacancy. This subsection does not apply to nominations made under G.S. 120-99(a) or G.S. 120-100(b).

(c) Failure to submit the recommendation, consultation, or nomination within the time periods required under this section shall be deemed a waiver by the third party of the opportunity."

SECTION 1.3.(c) This section is effective when this act becomes law and applies to recommendations, consultations, and nominations made on or after that date.

ALLOW ATTORNEYS' FEES WHEN THE STATE IS THE PREVAILING PARTY IN CERTAIN CIVIL ACTIONS AND CLARIFY AND STANDARDIZE THE REQUIREMENTS TO AWARD ATTORNEYS' FEES IN ACTIONS INVOLVING THE STATE

SECTION 1.4.(a) G.S. 6-19.1 reads as rewritten:

"**§ 6-19.1. Attorney's fees ~~to parties appealing or defending against agency decision.~~in certain actions involving the State.**

(a) Prevailing Party Is Not the State. – In any civil action, other than an adjudication for the purpose of establishing or fixing a rate, or a disciplinary action by a licensing board, brought by the State or brought by a party who is contesting State action pursuant to G.S. 150B-43 or any other appropriate provisions of law, unless the prevailing party is the State, the court may, in its discretion, allow the prevailing party to recover reasonable attorney's fees, including attorney's fees applicable to the administrative review portion of the case, in contested cases arising under Article 3 of Chapter 150B, to be taxed as court costs against the appropriate agency of the State if:

(1) The court finds that the agency acted without substantial justification in pressing its claim against the party; and

(2) The court finds that there are no special circumstances that would make the award of attorney's fees unjust. ~~The party shall petition for the attorney's fees within 30 days following final disposition of the case. The petition shall be supported by an affidavit setting forth the basis for the request.~~

Nothing in this ~~section~~ subsection shall be deemed to authorize the assessment of attorney's fees for the administrative review portion of the case in contested cases arising under Article 9 of Chapter 131E of the General Statutes.

~~Nothing in this section grants permission to bring an action against an agency otherwise immune from suit or gives a right to bring an action to a party who otherwise lacks standing to bring the action.~~

Any attorney's fees assessed against an agency of the State under this ~~section~~ subsection shall be charged against the operating expenses of the agency and shall not be reimbursed from any other source.

(b) Expired.

(c) Prevailing Party Is the State. – In any civil action or other proceeding, the court must allow the State to recover reasonable attorneys' fees and costs if the State is the prevailing party and the claim or issue involves one or both of the following:

(1) Contesting the State's ability to construct improvements to real property based on environmental impact.

(2) Contesting the State's issuance of a permit authorizing activity on real property based on environmental impact.

Reasonable attorneys' fees include attorneys' fees applicable to any administrative portion of the case. The attorneys' fees must be taxed as court costs against any law firm seeking relief against the State. Contracts between the law firm and named parties in the action to reimburse the law firm for attorneys' fees are valid and enforceable. Law firms may avoid liability under this subsection if the named parties post a bond for the payment of attorneys' fees and costs in an amount determined by the presiding judge. Upon motion of either party, the presiding judge may adjust the amount of the required bond at reasonable times.

(d) Petition and Award. – The prevailing party must petition for the attorneys' fees within 30 days following final disposition of the case. The petition must be supported by an affidavit setting forth the basis for the request. When the presiding judge determines that an award of attorneys' fees is to be made under this section, the judge must issue a written order including the factual basis and amount of attorneys' fees to be awarded.

(e) No Grant of Jurisdiction. – Nothing in this section grants permission to bring an action against the State when otherwise immune from suit or gives a right to bring an action to a party who otherwise lacks standing to bring the action.

(f) Definitions. – The following definitions apply in this section:

(1) Law firm. – Any entity or individual providing legal services in the action against the State.

(2) State. – The State and its agencies as defined in G.S. 150B-2(1a)."

SECTION 1.4.(b) This section becomes effective September 1, 2015, and applies to all actions or other proceedings filed on and after that date.

OCCUPATIONAL LICENSING BOARD INVESTIGATORS AND INSPECTORS

SECTION 1.5. Chapter 93B of the General Statutes is amended by adding a new section to read:

"**§ 93B-8.2. Prohibit licensees from serving as investigators.**

No occupational licensing board shall contract with or employ a person licensed by the board to serve as an investigator or inspector if the licensee is actively practicing in the profession or occupation over which the board has jurisdiction. Nothing in this section shall prevent a board from employing licensees who are not otherwise employed in the same profession or occupation or for other purposes."

NO FISCAL NOTE REQUIRED FOR LESS STRINGENT RULES

SECTION 1.6.(a) G.S. 150B-21.3A(d) reads as rewritten:

"(d) Timetable. – The Commission shall establish a schedule for the review and readoption of existing rules in accordance with this section on a decennial basis as follows:

...

(2) With regard to the readoption of rules as required by sub-subdivision (c)(2)g. of this section, once the final determination report becomes effective, the Commission shall establish a date by which the agency must readopt the rules. The Commission shall consult with the agency and shall consider the agency's rule-making priorities in establishing the readoption date. The agency may amend a rule as part of the readoption process. If a rule is readopted without substantive ~~change,~~ change or if the rule is amended to impose a less stringent burden on regulated persons, the agency is not required to prepare a fiscal note as provided by G.S. 150B-21.4."

SECTION 1.6.(b) This section is effective when this act becomes law and applies to periodic review of existing rules occurring pursuant to G.S. 150B-21.3A on or after that date.

APO TO MAKE RECOMMENDATIONS ON OCCUPATIONAL LICENSING BOARD CHANGES

SECTION 1.7. Pursuant to G.S. 120-70.101(3a), the Joint Legislative Administrative Procedure Oversight Committee (APO) shall review the recommendations contained in the Joint Legislative Program Evaluation Oversight Committee's report, entitled "Occupational Licensing Agencies Should Not be Centralized, but Stronger Oversight is Needed," to determine the best way to accomplish the recommendations contained in the report and to improve oversight of occupational licensing boards. In conducting the review, APO shall consult with occupational licensing boards, licensees, associations representing licensees, the Department of Commerce, and other interested parties. The APO cochairs may establish subcommittees to assist with various parts of the review, including determining whether licensing authority should be continued for the 12 boards identified in the report. The APO shall propose legislation to the 2016 Regular Session of the 2015 General Assembly.

TECHNICAL CORRECTION

SECTION 1.8. G.S. 20-116 reads as rewritten:

"**§ 20-116. Size of vehicles and loads.**

...

(g) ...

(3) A truck, trailer, or other ~~vehicle:~~

~~a.~~ ~~Licensed~~ vehicle licensed for 7,500 pounds or less gross vehicle weight and loaded with rock, gravel, stone, or any other similar substance that could fall, blow, leak, or sift, or licensed for any gross vehicle weight and loaded with ~~sand; or~~sand,

~~b. Licensed for 7,500 pounds or less gross vehicle weight and loaded with rock, gravel, stone, or any other similar substance that could fall, blow, leak, sift, or drop;~~

shall not be driven or moved on any highway unless:

a. The height of the load against all four walls does not extend above a horizontal line six inches below the top when loaded at the loading point;

b. The load is securely covered by tarpaulin or some other suitable covering; or

c. The vehicle is constructed to prevent any of its load from falling, dropping, sifting, leaking, blowing, or otherwise escaping therefrom.

...."

PART II. BUSINESS REGULATION

EXEMPT SMALL BUSINESS ENTITIES BUYING OR SELLING ENTITY-OWNED PROPERTY

SECTION 2.1. G.S. 93A-2(c)(1) reads as rewritten:

"(c) The provisions of G.S. 93A-1 and G.S. 93A-2 do not apply to and do not include:

(1) Any partnership, corporation, limited liability company, association, or other business entity that, as owner or lessor, shall perform any of the acts aforesaid with reference to property owned or leased by them, where the acts are performed in the regular course of or as incident to the management of that property and the investment therein. The exemption from licensure under this subsection shall extend to the following persons when those persons are engaged in acts or services for which the corporation, partnership, limited liability company, or other business entity would be exempt hereunder:

a. The officers and employees whose income is reported on IRS Form W-2 of an exempt ~~corporation, the~~corporation.

b. The general partners and employees whose income is reported on IRS Form W-2 of an exempt ~~partnership, and the~~partnership.

c. The ~~managers~~ managers, member-managers, and employees whose income is reported on IRS Form W-2 of an exempt limited liability ~~company when said persons are engaged in acts or services for which the corporation, partnership, or limited liability company would be exempt hereunder.~~company.

d. The natural person owners of an exempt closely held business entity. For purposes of this subdivision, a closely held business entity is a limited liability company or a corporation, neither having more than two legal owners, at least one of whom is a natural person.

e. The officers, managers, member-managers, and employees whose income is reported on IRS Form W-2 of a closely held business entity when acting as an agent for an exempt business entity, if the closely held business entity is owned by a natural person either (i) owning fifty percent (50%) or more ownership interest in the closely held business entity and the exempt business entity or (ii) owning fifty percent (50%) or more of a closely held business entity that owns a fifty percent (50%) or more ownership interest in the exempt business entity. The closely held business entity acting as an agent under this sub-subdivision must file an annual written notice with the Secretary of State, including its legal name and physical address. The exemption authorized by this sub-subdivision is only effective if, immediately following the completion of the transaction for which the exemption is claimed, the closely held business entity has a net worth that equals or exceeds the value of the transaction.

When a person conducts a real estate transaction pursuant to an exemption under this subdivision, the person shall disclose, in writing, to all parties to the transaction (i) that the person is not licensed as a real estate broker or salesperson under Article 1 of this Chapter, (ii) the specific exemption under this subdivision that applies, (iii) the legal name and physical address of the owner of the subject property and of the closely held business entity acting under sub-subdivision e. of this subdivision, if applicable. This disclosure may be included on the face of a lease or contract executed in compliance with an exemption under this subdivision."

MANUFACTURED HOME LICENSE/CRIMINAL HISTORY CHECK

SECTION 2.2. G.S. 143-143.10A reads as rewritten:

"**§ 143-143.10A. Criminal history checks of applicants for licensure.**

(a) Definitions. – The following definitions shall apply in this section:

(1) Applicant. – A person applying for initial licensure as a manufactured home ~~manufacturer, dealer, salesperson,~~ salesperson or set-up contractor.

...

(b) All applicants for initial licensure shall consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant. The Board shall ensure that the State and national criminal history of an applicant is checked. Applicants shall obtain criminal record reports from one or more reporting services designated by the Board to provide criminal record reports. Each applicant is required to pay the designated service for the cost of the criminal record report. In the alternative, the Board may provide to the North Carolina Department of Public Safety the fingerprints of the applicant to be checked, a form signed by the applicant consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories, and any additional information required by the Department of Public Safety. The Board shall keep all information obtained pursuant to this section confidential.

...."

AMEND DEFINITION OF "EMPLOYEE" UNDER THE WORKERS' COMPENSATION ACT TO EXCLUDE VOLUNTEERS AND OFFICERS OF CERTAIN NONPROFIT CORPORATIONS AND ASSOCIATIONS

SECTION 2.3. G.S. 97-2(2) reads as rewritten:

"**§ 97-2. Definitions.**

When used in this Article, unless the context otherwise requires:

...

(2) Employee. – The term "employee" means every person engaged in an employment under any appointment or contract of hire or apprenticeship, express or implied, oral or written, including aliens, and also minors, whether lawfully or unlawfully employed, but excluding persons whose employment is both casual and not in the course of the trade, business, profession, or occupation of his employer, and as relating to those so employed by the State, the term "employee" shall include all officers and employees of the State, including such as are elected by the people, or by the General Assembly, or appointed by the Governor to serve on a per diem, part-time or fee basis, either with or without the confirmation of the Senate; as relating to municipal corporations and political subdivisions of the State, the term "employee" shall include all officers and employees thereof, including such as are elected by the people. The term "employee" shall include members of the North Carolina National Guard while on State active duty under orders of the Governor and members of the North Carolina State Defense Militia while on State active duty under orders of the Governor. The term "employee" shall include deputy sheriffs and all persons acting in the capacity of deputy sheriffs, whether appointed by the sheriff or by the governing body of the county and whether serving on a fee basis or on a salary basis, or whether deputy sheriffs serving upon a full-time basis or a part-time basis, and including deputy sheriffs appointed to serve in an emergency, but as to those so appointed, only during the continuation of the emergency. The sheriff shall furnish to the board of county commissioners a complete list of all deputy sheriffs named or appointed by him immediately after their appointment and notify the board of commissioners of any changes made therein promptly after such changes are made. Any reference to an employee who has been injured shall, when the employee is dead, include also the employee's legal representative, dependents, and other persons to whom compensation may be payable: Provided, further, that any employee, as herein defined, of a municipality, county, or of the State of North Carolina, while engaged in the discharge of the employee's official duty outside the jurisdictional or territorial limits of the municipality, county, or the State of North Carolina and while acting pursuant to authorization or instruction from any superior officer, shall have the same rights under this Article as if such duty or activity were performed within the territorial boundary limits of their employer.

~~Every~~ Except as otherwise provided herein, every executive officer elected or appointed and empowered in accordance with the charter and bylaws of a corporation shall be considered as an employee of such corporation under this Article.

Any such executive officer of a corporation may, notwithstanding any other provision of this Article, be exempt from the coverage of the corporation's insurance contract by such corporation's specifically excluding such executive officer in such contract of insurance, and the exclusion to remove such executive officer from the coverage shall continue for the period such contract of insurance is in effect, and during such period such executive officers thus exempted from the coverage of the insurance contract shall not be employees of such corporation under this Article.

All county agricultural extension service employees who do not receive official federal appointments as employees of the United States Department of Agriculture and who are field faculty members with professional rank as designated in the memorandum of understanding between the North Carolina Agricultural Extension Service, North Carolina State University, A & T State University, and the boards of county commissioners shall be deemed to be employees of the State of North Carolina. All other county agricultural extension service employees paid from State or county funds shall be deemed to be employees of the county board of commissioners in the county in which the employee is employed for purposes of workers' compensation.

The term "employee" shall also include members of the Civil Air Patrol currently certified pursuant to G.S. 143B-1031(a) when performing duties in the course and scope of a State-approved mission pursuant to Subpart C of Part 5 of Article 13 of Chapter 143B of the General Statutes.

"Employee" shall not include any person performing voluntary service as a ski patrolman who receives no compensation for such services other than meals or lodging or the use of ski tow or ski lift facilities or any combination thereof.

"Employee" shall not include any person elected or appointed and empowered as an executive officer, director, or committee member under the charter, articles, or bylaws of a nonprofit corporation subject to Chapter 47A, 47C, 47F, 55A, or 59B of the General Statutes, or any organization exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, who performs only voluntary service for the nonprofit corporation, provided that the person receives no remuneration for the voluntary service other than reasonable reimbursement for expenses incurred in connection with the voluntary service. When a nonprofit corporation as described herein employs one or more persons who do receive remuneration other than reasonable reimbursement for expenses, then any volunteer officers, directors, or committee members excluded from the definition of "employee" by operation of this paragraph shall be counted as employees for the sole purpose of determining the number of persons regularly employed in the same business or establishment pursuant to G.S. 97-2(1). Other than for the limited purpose of determining the number of persons regularly employed in the same business or establishment, such volunteer nonprofit officers, directors, or committee members shall not be "employees" under the Act. Nothing herein shall prohibit a nonprofit corporation as described herein from voluntarily electing to provide for workers' compensation benefits in the manner provided in G.S. 97-93 for volunteer officers, directors, or committee members excluded from the definition of "employee" by operation of this paragraph. This paragraph shall not apply to any volunteer firefighter, volunteer member of an organized rescue squad, an authorized pickup firefighter when that individual is engaged in emergency fire suppression activities for the North Carolina Forest Service, a duly appointed and sworn member of an auxiliary police department organized pursuant to G.S. 160A-282, or a senior member of the State Civil Air Patrol functioning under Subpart C of Part 5 of Article 13 of Chapter 143B of the General Statutes, even if such person is elected or appointed and empowered as an executive officer, director, or committee member under the charter, articles, or bylaws of a nonprofit corporation as described herein.

Any sole proprietor or partner of a business or any member of a limited liability company may elect to be included as an employee under the workers' compensation coverage of such business if he is actively engaged in the operation of the business and if the insurer is notified of his election to be so included. Any such sole proprietor or partner or member of a limited liability company shall, upon such election, be entitled to employee benefits and be subject to employee responsibilities prescribed in this Article.

~~Employee"~~ "Employee" shall include an authorized pickup firefighter of the North Carolina Forest Service of the Department of Agriculture and Consumer Services when that individual is engaged in emergency fire suppression activities for the North Carolina Forest Service. As used in this section, "authorized pickup firefighter" means an individual who has completed required fire suppression training as a wildland firefighter and who is available as needed by the North Carolina Forest Service for emergency fire suppression activities, including immediate dispatch to wildfires and standby for initial attack on fires during periods of high fire danger.

It shall be a rebuttable presumption that the term "employee" shall not include any person performing services in the sale of newspapers or magazines to ultimate consumers under an arrangement whereby the newspapers or magazines are to be sold by that person at a fixed price and the person's compensation is based on the retention of the excess of the fixed price over the amount at which the newspapers or magazines are charged to the person."

PART III. STATE AND LOCAL GOVERNMENT REGULATION

REDUCE STATE AGENCY MOBILE DEVICE REPORTING FREQUENCY

SECTION 3.1. Subsection 6A.14(a) of S.L. 2011-145 reads as rewritten:

"**SECTION 6A.14.(a)** Every executive branch agency within State government shall develop a policy to limit the issuance and use of mobile electronic devices to the minimum required to carry out the agency's mission. By September 1, 2011, each agency shall provide a copy of its policy to the Chairs of the Appropriations Committee and the Appropriations Subcommittee on General Government of the House of Representatives, the Chairs of the Appropriations/Base Budget Committee and the Appropriations Committee on General Government and Information Technology of the Senate, the Chairs of the Joint Legislative Oversight Committee on Information Technology, the Fiscal Research Division, and the Office of State Budget and Management.

State-issued mobile electronic devices shall be used only for State business. Agencies shall limit the issuance of cell phones, smart phones, and any other mobile electronic devices to employees for whom access to a mobile electronic device is a critical requirement for job performance. The device issued and the plan selected shall be the minimum required to support the employees' work requirements. This shall include considering the use of pagers in lieu of a more sophisticated device. The requirement for each mobile electronic device issued shall be documented in a written justification that shall be maintained by the agency and reviewed annually. All State agency heads, in consultation with the Office of Information Technology Services and the Office of State Budget and Management, shall document and review all authorized cell phone, smart phone, and other mobile electronic communications device procurement, and related phone, data, Internet, and other usage plans for and by their employees. Agencies shall conduct periodic audits of mobile device usage to ensure that State

employees and contractors are complying with agency policies and State requirements for their use.

Beginning October 1, 2011, each agency shall report ~~quarterly~~ annually to the Chairs of the House of Representatives Committee on Appropriations and the House of Representatives Subcommittee on General Government, the Chairs of the Senate Committee on Appropriations and the Senate Appropriations Committee on General Government and Information Technology, the Joint Legislative Oversight Committee on Information Technology, the Fiscal Research Division, and the Office of State Budget and Management on the following:

(1) Any changes to agency policies on the use of mobile devices.
(2) The number and types of new devices issued since the last report.
(3) The total number of mobile devices issued by the agency.
(4) The total cost of mobile devices issued by the agency.
(5) The number of each type of mobile device issued, with the total cost for each type."

GOOD SAMARITAN EXPANSION

SECTION 3.3.(a) G.S. 14-56 reads as rewritten:

"**§ 14-56. Breaking or entering into or breaking out of railroad cars, motor vehicles, trailers, aircraft, boats, or other watercraft.**

(a) If any person, with intent to commit any felony or larceny therein, breaks or enters any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind, containing any goods, wares, freight, or other thing of value, or, after having committed any felony or larceny therein, breaks out of any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind containing any goods, wares, freight, or other thing of value, that person is guilty of a Class I felony. It is prima facie evidence that a person entered in violation of this section if he is found unlawfully in such a railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft.

(b) It shall not be a violation of this section for any person to break or enter any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind to provide assistance to a person inside the railroad car, motor vehicle, trailer, aircraft, boat, or watercraft of any kind if one or more of the following circumstances exist:

(1) The person acts in good faith to access the person inside the railroad car, motor vehicle, trailer, aircraft, boat, or watercraft of any kind in order to provide first aid or emergency health care treatment or because the person inside is, or is in imminent danger of becoming, unconscious, ill, or injured.
(2) It is reasonably apparent that the circumstances require prompt decisions and actions in medical, other health care, or other assistance for the person inside the railroad car, motor vehicle, trailer, aircraft, boat, or watercraft of any kind.
(3) The necessity of immediate health care treatment or removal of the person from the railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind is so reasonably apparent that any delay in the rendering of treatment or removal would seriously worsen the physical condition or endanger the life of the person."

SECTION 3.3.(b) This section becomes effective September 1, 2015, and applies to offenses committed on or after that date.

SECTION 3.4.(a) Chapter 1 of the General Statutes is amended by adding a new Article to read:

"Article 43F.
"Immunity for Damage to Vehicle.

"**§ 1-539.27. Immunity from civil liability for damage to railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft necessary for assistance.**

Any person who enters or attempts to enter any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind shall not be liable in civil damages for any damage to the railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind if one or more of the following circumstances exist:

(1) The person acts in good faith to access a person inside the railroad car, motor vehicle, trailer, aircraft, boat, or watercraft of any kind in order to provide first aid or emergency health care treatment or because the person inside is, or is in imminent danger of becoming, unconscious, ill, or injured.

(2) It is reasonably apparent that the circumstances require prompt decisions and actions in medical care, other health care, or other assistance.

(3) The necessity of immediate health care treatment or removal of the person from the railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind is so reasonably apparent that any delay in the rendering of treatment or removal would seriously worsen the physical condition or endanger the life of the person.

This section shall not apply to any acts of gross negligence, wanton conduct, or intentional wrongdoing."

SECTION 3.4.(b) This section becomes effective September 1, 2015, and applies to causes of action arising on or after that date.

DIRECT DMV TO ISSUE SUITABLY REDUCED SIZE REGISTRATION PLATES FOR MOTORCYCLES AND PROPERTY HAULING TRAILERS ATTACHED TO MOTORCYCLES.

SECTION 3.5.(a) G.S. 20-63(d) reads as rewritten:

"(d) Registration plates issued for a motor vehicle other than a motorcycle, trailer, or semitrailer shall be attached thereto, one in the front and the other in the rear: Provided, that when only one registration plate is issued for a motor vehicle other than a truck-tractor, said registration plate shall be attached to the rear of the motor vehicle. The registration plate issued for a truck-tractor shall be attached to the front thereof. Provided further, that when only one registration plate is issued for a motor vehicle and this motor vehicle is transporting a substance that may adhere to the plate so as to cover or discolor the plate or if the motor vehicle has a mechanical loading device that may damage the plate, the registration plate may be attached to the front of the motor vehicle.

Any motor vehicle of the age of 35 years or more from the date of manufacture may bear the license plates of the year of manufacture instead of the current registration plates, if the current registration plates are maintained within the vehicle and produced upon the request of any person.

The Division shall provide registered owners of motorcycles and property hauling motorcycle trailers attached to the rear of motorcycles with suitably reduced size registration ~~plates.~~plates, approximately four by seven inches in size, that are issued on a multiyear basis in accordance with G.S. 20-88(c), or on an annual basis as otherwise provided in this Chapter."

SECTION 3.5.(b) This section becomes effective October 1, 2015.

STATUS FOR PROVIDERS OF MH/DD/SA SERVICES WHO ARE NATIONALLY ACCREDITED

SECTION 3.7. G.S. 122C-81 reads as rewritten:

"**§ 122C-81. National accreditation benchmarks.**

(a) As used in this section, the term:

(1) "National accreditation" applies to accreditation by an entity approved by the Secretary that accredits mental health, developmental disabilities, and substance abuse services.

(2) "Provider" applies to only those providers of services, including facilities, requiring national accreditation, which services are designated by the Secretary pursuant to subsection (b) of this section.

(b) The Secretary, through the Medicaid State Plan, Medicaid waiver, or rules adopted by the Secretary, shall designate the mental health, developmental disabilities, and substance abuse services that require national accreditation. In accordance with rules of the Commission, the Secretary may exempt a provider that is accredited under this section and in good standing with the national accrediting agency from undergoing any routine monitoring that is duplicative of the oversight by the national accrediting agency.

...

(e) The Commission may adopt rules establishing a procedure by which a provider that is accredited under this section and in good standing with the national accrediting agency may be exempt from undergoing any routine monitoring that is duplicative of the oversight by the national accrediting agency. Any provider shall continue to be subject to inspection by the Secretary, provided the inspection is not duplicative of inspections required by the national accrediting agency. Rules adopted under this subsection may not waive any requirements that may be imposed under federal law."

CLARIFY THAT WHEN A NEW PERMIT OR TRANSITIONAL PERMIT IS ISSUED FOR AN ESTABLISHMENT, ANY PREVIOUS PERMIT FOR THAT SAME ESTABLISHMENT IN THAT LOCATION BECOMES VOID

SECTION 3.8. G.S. 130A-248(c) reads as rewritten:

"(c) If ownership of an establishment is transferred or the establishment is leased, the new owner or lessee shall apply for a new permit. The new owner or lessee may also apply for a transitional permit. A transitional permit may be issued upon the transfer of ownership or lease of an establishment to allow the correction of construction and equipment problems that do not represent an immediate threat to the public health. Upon issuance of a new permit or a transitional permit for ~~an~~the same establishment, any previously issued permit for an establishment in that location becomes void. This subsection does not prohibit issuing more than one owner or lessee a permit for the same location if (i) more than one establishment is operated in the same physical location and (ii) each establishment satisfies all of the rules and requirements of subsection (g) of this section."

OPEN AND FAIR COMPETITION WITH RESPECT TO THE MATERIALS USED IN WASTEWATER, STORMWATER, AND OTHER WATER PROJECTS

SECTION 3.9.(a) Article 8 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-129.10. Public entities shall consider all acceptable piping materials in water, wastewater, or stormwater projects.**

(a) Consideration of All Acceptable Piping Materials Required. – A public entity shall consider all acceptable piping materials before determining which piping material should be used in the construction, development, financing, maintaining, rebuilding, improving, repairing, procuring, or operating of a water, wastewater, or stormwater drainage project unless sound engineering practices, as determined by a professional engineer licensed to practice pursuant to Chapter 89C of the General Statutes, suggest that one type of acceptable piping material is more suitable for a particular project.

(b) Definitions. – The following definitions apply in this section:

(1) Acceptable piping material. – Piping material that meets or exceeds the standards issued by the American Society for Testing and Materials, the American Water Works Association, or the American Association of State Highway & Transportation Officials.

(2) Public entity. – A county, city, sanitary district created under Part 2 of Article 2 of Chapter 130A of the General Statutes, authority created under Article 1 of Chapter 162A of the General Statutes, metropolitan sewerage district created under Article 5 of Chapter 162A of the General Statutes, county water and sewer district created under Article 6 of Chapter 162A of the General Statutes, or any other political subdivision of the State."

SECTION 3.9.(b) This section becomes effective October 1, 2015, and applies to projects initiated on or after that date.

LICENSED SURVEYOR TO MARK BOUNDARIES OF STATE PROPERTIES

SECTION 3.10.(a) G.S. 146-33 reads as rewritten:

"**§ 146-33. State agencies to locate and mark boundaries of lands.**

(a) Every State agency shall locate and identify, and shall mark and keep marked, the boundaries of all lands allocated to that agency or under its control. The Department of Administration shall locate and identify, and mark and keep marked, the boundaries of all State lands not allocated to or under the control of any other State agency. The chief administrative officer of every State agency is authorized to contract with the Division of Adult Correction of the Department of Public Safety for the furnishing, upon such conditions as may be agreed upon from time to time between the Division of Adult Correction of the Department of Public Safety and the chief administrative officer of that agency, of prison labor for use where feasible in the performance of these duties.

(b) If a State agency contracts with a person who is not employed by the State to mark or keep marked the boundaries of lands allocated to that agency, or under that agency's control, that State agency shall use only a licensed professional engineer or surveyor."

SECTION 3.10.(b) This section becomes effective October 1, 2015, and applies to surveys or markings conducted on or after that date.

AMEND UNDERGROUND DAMAGE PREVENTION REVIEW BOARD, ENFORCEMENT, AND CIVIL PENALTIES

SECTION 3.12. G.S. 87-129 reads as rewritten:

"**§ 87-129. Underground Damage Prevention Review Board; enforcement; civil penalties.**

(a) ~~The Notification Center shall establish an~~ There is hereby established the Underground Damage Prevention Review Board to review reports of alleged violations of this Article. The members of the Board shall be appointed by the Governor. The Board shall consist of ~~the following members:~~15 members as follows:

(1) A representative from the North Carolina Department of Transportation;
(2) A representative from a facility contract locator;
(3) A representative from the Notification Center;
(4) A representative from an electric public utility;
(5) A representative from the telecommunications industry;
(6) A representative from a natural gas utility;
(7) A representative from a hazardous liquid transmission pipeline company;
(8) A representative recommended by the League of Municipalities;
(9) A highway contractor licensed under G.S. 87-10(b)(2) who does not own or operate facilities;
(10) A public utilities contractor licensed under G.S. 87-10(b)(3) who does not own or operate facilities;

(11) A surveyor licensed under Chapter 89C of the General Statutes;
(12) A representative from a rural water system;
(13) A representative from an investor-owned water system;
(14) A representative from an electric membership corporation; and
(15) A representative from a cable company.

(a1) Each member of the Board shall be appointed for a term of four years. Members of the Board may serve no more than two consecutive terms. Vacancies in appointments made by the Governor occurring prior to the expiration of a term shall be filled by appointment for the unexpired term.

(a2) No member of the Board may serve on a case where there would be a conflict of interest.

(a3) The Governor may remove any member at any time for cause.

(a4) Eight members of the Board shall constitute a quorum.

(a5) The Governor shall designate one member of the Board as chair.

(a6) The Board may adopt rules to implement this Article.

(b) The Notification Center shall transmit all reports of alleged violations of this Article to the Board, including any information received by the Notification Center regarding the report. ~~The Board shall meet at least quarterly to review all reports filed pursuant to G.S. 87-120(e). The Board shall act as an arbitrator between the parties to the report. If, after reviewing the report and any accompanying information, the Board determines that a violation of this Article has occurred, the Board shall notify the violating party in writing of its determination and the recommended penalty. The violating party~~

(b1) The Board shall review all reports of alleged violations of this Article and accompanying information. If the Board determines that a person has violated any provision of this Article, the Board shall determine the appropriate action or penalty to impose for each such violation. Actions and penalties may include training, education, and a civil penalty not to exceed two thousand five hundred dollars ($2,500). The Board shall notify each person who is determined to have violated this Article in writing of the Board's determination and the Board's recommended action or penalty. A person determined to be in violation of this Article may request a hearing before the Board, after which the Board may reverse or uphold its original finding. If the Board recommends a penalty, the Board shall notify the Utilities Commission of the recommended penalty, and the Utilities Commission shall issue an order imposing the penalty.

(c) A ~~party~~ person determined by the Board under subsection ~~(b)~~ (b1) of this section to have violated this Article may ~~initiate~~ appeal the Board's determination by initiating an arbitration proceeding before the Utilities ~~Commission.~~ Commission within 30 days of the Board's determination. If the violating party elects to initiate an arbitration proceeding, the violating party shall pay a filing fee of two hundred fifty dollars ($250.00) to the Utilities Commission, and the Utilities Commission shall open a docket regarding the report. The Utilities Commission shall direct the parties enter into an arbitration process. The parties shall be responsible for selecting and contracting with the arbitrator. Upon completion of the arbitration process, the Utilities Commission shall issue an order encompassing the outcome of the binding arbitration process, including a determination of fault, a penalty, and assessing the costs of arbitration to the non-prevailing party. ~~Any party may~~

(c1) A person may timely appeal an order issued by the Utilities Commission pursuant to this section to the superior court division of the General Court of Justice in the county where the alleged violation of this Article occurred or in Wake County, for trial ~~de novo.~~ de novo within 30 days of entry of the Utilities Commission's order. The authority granted to the Utilities Commission within this section is limited to this section and does not grant the Utilities Commission any authority that they are not otherwise granted under Chapter 62 of the General Statutes.

(d) ~~Any person who violates any provision of this Article shall be subject to a penalty as set forth in this subsection.~~ The provisions of this Article do not affect any civil remedies for personal injury or property damage otherwise available to any person, except as otherwise specifically provided for in this Article. The penalty provisions of this Article are cumulative to and not in conflict with provisions of law with respect to civil remedies for personal injury or property damage. The clear proceeds of any civil penalty assessed under this section shall be used as provided in Section 7(a) of Article IX of the North Carolina Constitution. ~~The penalties for a violation of this Article shall be as follows:~~In any arbitration proceeding before the Utilities Commission, any actions and penalties assessed against any person for violation of this Article shall include the actions and penalties set out in subsection (b1) of this section.

~~(1) If the violation was the result of negligence, the penalty shall be a requirement of training, a requirement of education, or both.~~

~~(2) If the violation was the result of gross negligence, the penalty shall be a civil penalty of one thousand dollars ($1,000), a requirement of training, a requirement of education, or a combination of the three.~~

~~(3) If the violation was the result of willful or wanton negligence or intentional conduct, the penalty shall be a civil penalty of two thousand five hundred dollars ($2,500), a requirement of training, and a requirement of education.~~"

CONFORM NORTH CAROLINA ALL-TERRAIN VEHICLE LAWS TO NATIONAL SAFETY AND DESIGN STANDARDS FOR YOUTH OPERATORS

SECTION 3.13.(a) G.S. 20-171.15 reads as rewritten:

"**§ 20-171.15. Age restrictions.**

(a) It is unlawful for any parent or legal guardian of a person less than ~~eight~~six years of age to knowingly permit that person to operate an all-terrain vehicle.

~~(b) It is unlawful for any parent or legal guardian of a person less than 12 years of age to knowingly permit that person to operate an all-terrain vehicle with an engine capacity of 70 cubic centimeter displacement or greater.~~

(c) It is unlawful for any parent or legal guardian of a person less than 16 years of age to knowingly permit that person to operate an all-terrain vehicle ~~with an engine capacity greater than 90 cubic centimeter displacement.~~in violation of the Age Restriction Warning Label affixed by the manufacturer as required by the applicable American National Standards Institute/Specialty Vehicle Institute of America (ANSI/SVIA) design standard.

(d) It is unlawful for any parent or legal guardian of a person less than 16 years of age to knowingly permit that person to operate an all-terrain vehicle unless the person is under the continuous visual supervision of a person 18 years of age or older while operating the all-terrain vehicle.

(e) ~~Subsections (b) and~~ Subsection (c) of this section ~~do~~ does not apply to any parent or legal guardian of a person born on or before August 15, 1997, who permits that person to operate an all-terrain vehicle and who establishes proof that the parent or legal guardian owned the all-terrain vehicle prior to August 15, 2005."

SECTION 3.13.(b) G.S. 20-171.17 reads as rewritten:

"**§ 20-171.17. Prohibited acts by sellers.**

No person shall knowingly sell or offer to sell an all-terrain vehicle:

(1) For use by a person under the age of ~~eight~~six years.

(2) ~~With an engine capacity of 70 cubic centimeter displacement or greater for use by a person less than 12 years of age.~~In violation of the Age Restriction Warning Label affixed by the manufacturer as required by the applicable American National Standards Institute/Specialty Vehicle Institute of America (ANSI/SVIA) design standard for use by a person less than 16 years of age.

~~(3) With an engine capacity of greater than 90 cubic centimeter displacement for use by a person less than 16 years of age.~~"

PART IV. ENVIRONMENTAL AND NATURAL RESOURCES REGULATION

ENVIRONMENTAL SELF-AUDIT PRIVILEGE AND LIMITED IMMUNITY

SECTION 4.1.(a) Chapter 8 of the General Statutes is amended by adding a new Part to read:

"Part 7D. Environmental Audit Privilege and Limited Immunity.

"**§ 8-58.50. Purpose.**

(a) In order to encourage owners and operators of facilities and persons conducting activities regulated under those portions of the General Statutes set forth in G.S. 8-58.52, or conducting activities regulated under other environmental laws, to conduct voluntary internal environmental audits of their compliance programs and management systems and to assess and improve compliance with statutes, an environmental audit privilege is recognized to protect the confidentiality of communications relating to voluntary internal environmental audits.

(b) Notwithstanding any other provisions of law, nothing in this Part shall be construed to protect owners and operators of facilities and regulated persons from a criminal investigation or prosecution carried out by any appropriate governmental entity.

(c) Notwithstanding any other provision of law, any privilege granted by this Part shall apply only to those communications, oral or written, pertaining to and made in connection with the environmental audit and shall not apply to the facts relating to the violation itself.

"**§ 8-58.51. Definitions.**

The following definitions apply in this Part:

(1) "Department" means the Department of Environment and Natural Resources.

(2) "Enforcement agencies" means the Department, any other agency of the State, and units of local government responsible for enforcement of environmental laws.

(3) "Environmental audit" means a voluntary, internal evaluation or review of one or more facilities or an activity at one or more facilities regulated under federal, State, regional, or local environmental law, or of compliance programs, or management systems related to the facility or activity if designed to identify and prevent noncompliance and to improve compliance with these laws. For the purposes of this Part, an environmental audit does not include an environmental site assessment of a facility conducted solely in anticipation of the purchase, sale, or transfer of the business or facility. An environmental audit may be conducted by the owner or operator, the parent corporation of the owner or operator or by their officers or employees, or by independent contractors. An environmental audit must be a discrete activity with a specified beginning date and scheduled ending date reflecting the auditor's bona fide intended completion schedule.

(4) "Environmental audit report" means a document marked or identified as such with a completion date existing either individually or as a compilation prepared in connection with an environmental audit. An environmental audit report may include field notes and records of observations, findings, opinions, suggestions, recommendations, conclusions, drafts, memoranda, drawings, photographs, computer-generated or electronically recorded information, maps, charts, graphs, and surveys, provided the supporting information is collected or developed for the primary purpose and in the course of an environmental audit. An environmental audit report, when completed, may include all of the following components:

a. An audit report prepared by an auditor, which may include the scope and date of the audit and the information gained in the audit, together with exhibits and appendices and may include conclusions, recommendations, exhibits, and appendices.

b. Memoranda and documents analyzing any portion of the audit report or issues relating to the implementation of an audit report.

c. An implementation plan that addresses correcting past noncompliance, improving current compliance, or preventing future noncompliance.

(5) "Environmental laws" means all provisions of federal, State, and local laws, rules, and ordinances pertaining to environmental matters.

"**§ 8-58.52. Applicability.**

(a) This Part applies to activities regulated under environmental laws, including all of the following provisions of the General Statutes, and rules adopted thereunder:

(1) Article 7 of Chapter 74.
(2) Chapter 104E.
(3) Article 25 of Chapter 113.
(4) Articles 1, 4, and 7 of Chapter 113A.
(5) Article 9 of Chapter 130A, except as provided in subsection (b) of this section.
(6) Articles 21, 21A, and 21B of Chapter 143.
(7) Part 1 of Article 7 of Chapter 143B.

(b) This Part shall not apply to activities regulated under the Coal Ash Management Act of 2014 under Part 2I of Article 9 of Chapter 130A of the General Statutes and rules promulgated pursuant to that Part.

"**§ 8-58.53. Environmental audit report; privilege.**

(a) An environmental audit report or any part of an environmental audit report is privileged and, therefore, immune from discovery and is not admissible as evidence in civil or administrative proceedings, except as provided in G.S. 8-58.54 and G.S. 8-58.56. Provided, however, all of the following documents are exempt from the privilege established by this Part:

(1) Information obtained by observation of an enforcement agency.
(2) Information obtained from a source independent of the environmental audit.
(3) Documents, communication, data, reports, or other information required to be collected, maintained, otherwise made available, or reported to an enforcement agency or any other entity by environmental laws, permits, orders, consent agreements, or as otherwise provided by law.
(4) Documents prepared either prior to the beginning of the environmental audit or subsequent to the completion date of the audit report and, in all cases, any documents prepared independent of the audit or audit report.
(5) Documents prepared as a result of multiple or continuous self-auditing conducted in an effort to intentionally avoid liability for violations.
(6) Information that is knowingly misrepresented or misstated or that is knowingly deleted or withheld from an environmental audit report, whether or not included in a subsequent environmental audit report.
(7) Information in instances where the material shows evidence of noncompliance with environmental laws, permits, orders, consent agreements, and the owner or operator failed to either promptly take corrective action or eliminate any violation of law identified during the environmental audit within a reasonable period of time.

(b) If an environmental audit report or any part of an environmental audit report is subject to the privilege provided for in subsection (a) of this section, no person who conducted

or participated in the audit or who significantly reviewed the audit report may be compelled to testify regarding the audit report or a privileged part of the audit report except as provided for in G.S. 8-58.53(d), 8-58.54, or 8-58.56.

(c) Nothing in this Part shall be construed to restrict a party in a proceeding before the Industrial Commission from obtaining or discovering any evidence necessary or appropriate for the proof of any issue pending in an action before the Commission, regardless of whether evidence is privileged pursuant to this Part. Further, nothing in this Part shall be construed to prevent the admissibility of evidence that is otherwise relevant and admissible in a proceeding before the Industrial Commission, regardless of whether the evidence is privileged pursuant to this Part. Provided, however, the Commission, upon motion made by a party to the proceeding, may issue appropriate protective orders preventing disclosure of information outside of the Commission's proceeding.

(d) Nothing in this Part shall be construed to circumvent the employee protection provisions provided by federal or State law.

(e) The privilege created by this Part does not apply to criminal investigations or proceedings. Where an audit report is obtained, reviewed, or used in a criminal proceeding, the privilege created by this Part shall continue to apply and is not waived in civil and administrative proceedings and is not discoverable or admissible in civil or administrative proceedings even if disclosed during a criminal proceeding.

"**§ 8-58.54. Waiver of privilege.**

(a) The privilege established under G.S. 8-58.53 does not apply to the extent that it is expressly waived in writing by the owner or operator of a facility at which an environmental audit was conducted and who prepared or caused to be prepared the audit report as a result of the audit.

(b) The audit report and information generated by the audit may be disclosed without waiving the privilege established under G.S. 8-58.53 to all of the following persons:

(1) A person employed by the owner or operator or the parent corporation of the audited facility.

(2) A legal representative of the owner or operator or parent corporation.

(3) An independent contractor retained by the owner or operator or parent corporation to conduct an audit on or to address an issue or issues raised by the audit.

(c) Disclosure of an audit report or information generated by the audit under all of the following circumstances shall not constitute a waiver of the privilege established under G.S. 8-58.53:

(1) Disclosure made under the terms of a confidentiality agreement between the owner or operator of the facility audited and a potential purchaser of the business or facility audited.

(2) Disclosure made under the terms of a confidentiality agreement between governmental officials and the owner or operator of the facility audited.

(3) Disclosure made under the terms of a confidentiality agreement between a customer, lending institution, or insurance company with an existing or proposed relationship with the facility.

"**§ 8-58.55. Notification of audit.**

In order to assert the privilege established under G.S. 8-58.53, the owner or operator of the facility conducting the environmental audit shall, upon inspection of the facility by an enforcement agency, or no later than 10 working days after completion of an agency's inspection, notify the enforcement agency of the existence of any audit relevant to the subject of the agency's inspection, as well as the beginning date and completion date of that audit. Any environmental audit report shall include a signed certification from the owner or operator of the facility that documents the date the audit began and the completion date of the audit.

"**§ 8-58.56. Revocation of privilege in civil and administrative proceedings.**

In a civil or administrative proceeding, an enforcement agency may seek by motion a declaratory ruling on the issue of whether an environmental audit report is privileged. The court shall revoke the privilege established under G.S. 8-58.53 for an audit report if the factors set forth in this section apply. In a civil proceeding, the court, after an in camera review, shall revoke the privilege established under G.S. 8-58.53 if the court determines that disclosure of the environmental audit report was sought after the effective date of this Part and either of the following apply:

(1) The privilege is asserted for purposes of deception or evasion.

(2) The material shows evidence of significant noncompliance with applicable environmental laws; the owner or operator of the facility has not promptly initiated and pursued with diligence appropriate action to achieve compliance with these environmental laws or has not made reasonable efforts to complete any necessary permit application; and, as a result, the owner or operator of the facility did not or will not achieve compliance with applicable environmental laws or did not or will not complete the necessary permit application within a reasonable period of time.

"**§ 8-58.57. Privilege in criminal proceedings.**

The privilege established under G.S. 8-58.53 is not applicable in any criminal proceeding.

"**§ 8-58.58. Burden of proof.**

A party asserting the privilege established under G.S. 8-58.53 has the burden of proving that (i) the materials claimed as privileged constitute an environmental audit report as defined by this Part and (ii) compliance has been achieved or will be achieved within a reasonable period of time. A party seeking disclosure under G.S. 8-58.56 has the burden of proving the condition for disclosure set forth in that section.

"**§ 8-58.59. Stipulations; declaratory rulings.**

The parties to a proceeding may at any time stipulate to entry of an order directing that specific information contained in an environmental audit report is or is not subject to the privilege. In the absence of an ongoing proceeding, where the parties are not in agreement, an enforcement agency may seek a declaratory ruling from a court on the issue of whether the materials are privileged under G.S. 8-58.53 and whether the privilege, if existing, should be revoked pursuant to G.S. 8-58.56.

"**§ 8-58.60. Construction of Part.**

Nothing in this Part limits, waives, or abrogates any of the following:

(1) The scope or nature of any statutory or common law privilege, including the work-product privilege or the attorney-client privilege.

(2) Any existing ability or authority under State law to challenge privilege.

(3) An enforcement agency's ability to obtain or use documents or information that the agency otherwise has the authority to obtain under State law adopted pursuant to federally delegated programs.

"**§ 8-58.61. Voluntary disclosure; limited immunity from civil and administrative penalties and fines.**

(a) An owner or operator of a facility is immune from imposition of civil and administrative penalties and fines for a violation of environmental laws voluntarily disclosed subject to the requirements and criteria set forth in this section. Provided, however, that waiver of penalties and fines shall not be granted until the applicable enforcement agency has certified that the violation was corrected within a reasonable period of time. If compliance is not certified by the enforcement agency, the enforcement agency shall retain discretion to assess penalties and fines for the violation.

(b) If a person or entity makes a voluntary disclosure of a violation of environmental laws discovered through performance of an environmental audit, that person has the burden of

proving (i) that the disclosure is voluntary by establishing the elements set forth in subsection (c) of this section and (ii) that the person is therefore entitled to immunity from any administrative or civil penalties associated with the issues disclosed. Nothing in this section may be construed to provide immunity from criminal penalties.

(c) For purposes of this section, disclosure is voluntary if all of the following criteria are met:

(1) The disclosure is made within 14 days following a reasonable investigation of the violation's discovery through the environmental audit.

(2) The disclosure is made to an enforcement agency having regulatory authority over the violation disclosed.

(3) The person or entity making the disclosure initiates an action to resolve the violation identified in the disclosure in a diligent manner.

(4) The person or entity making the disclosure cooperates with the applicable enforcement agency in connection with investigation of the issues identified in the disclosure.

(5) The person or entity making the disclosure diligently pursues compliance and promptly corrects the noncompliance within a reasonable period of time.

(d) A disclosure is not voluntary for purposes of this section if any of the following factors apply:

(1) Specific permit conditions require monitoring or sampling records and reports or assessment plans and management plans to be maintained or submitted to the enforcement agency pursuant to an established schedule.

(2) Environmental laws or specific permit conditions require notification of releases to the environment.

(3) The violation was committed intentionally, willfully, or through criminal negligence by the person or entity making the disclosure.

(4) The violation was not corrected in a diligent manner.

(5) The violation posed or poses a significant threat to public health, safety, and welfare; the environment; and natural resources.

(6) The violation occurred within one year of a similar prior violation at the same facility, and immunity from civil and administrative penalties was granted by the applicable enforcement agency for the prior violation.

(7) The violation has resulted in a substantial economic benefit to the owner or operator of the facility.

(8) The violation is a violation of the specific terms of a judicial or administrative order.

(e) If a person meets the burden of proving that the disclosure is voluntary, the burden shifts to the enforcement agency to prove that the disclosure was not voluntary, based upon the factors set forth in this section. The person claiming immunity from civil or administrative penalties or fines under this section retains the ultimate burden of proving the violations were voluntarily disclosed.

(f) A voluntary disclosure made pursuant to this section is subject to disclosure pursuant to the Public Records Act in accordance with the provisions of Chapter 132 of the General Statutes.

"**§ 8-58.62. Additional limitations on exercise of privilege or immunity.**

An owner or operator of a facility who makes a voluntary disclosure of a violation of environmental laws discovered through performance of an environmental audit shall only be entitled to exercise of the privilege or immunity established by this Part once in a two-year period, not more than twice in a five-year period, and not more than three times in a 10-year period.

"**§ 8-58.63. Preemption of local laws.**

No local law, rule, ordinance, or permit condition may circumvent or limit the privilege established by this Part or the exercise of the privileges or the presumption and immunity established by this Part."

SECTION 4.1.(b) No later than 30 days after this bill becomes law, the Department of Environment and Natural Resources shall submit Part 7D of Chapter 8 of the General Statutes, Environmental Audit Privilege and Limited Immunity, as enacted by this section, to the United States Environmental Protection Agency and shall request the Agency's approval to implement the Part in concert with the State's legal authority to continue administering delegated, approved, or authorized federal environmental programs within the State.

SECTION 4.1.(c) No later than September 1, 2015, the Department shall report to the Environmental Review Commission on its activities conducted pursuant to subsection (b) of this section and shall report monthly thereafter until approval to implement Part 7D of Chapter 8 of the General Statutes, Environmental Audit Privilege and Limited Immunity, as enacted by this section, is received from the United States Environmental Protection Agency.

SECTION 4.1.(d) This section becomes effective upon the date approval to implement Part 7D of Chapter 8 of the General Statutes, Environmental Audit Privilege and Limited Immunity, as enacted by this section, is received from the United States Environmental Protection Agency.

REPEAL RECYCLING REQUIREMENTS FOR DISCARDED COMPUTER EQUIPMENT AND TELEVISIONS

SECTION 4.2.(a) Part 2H of Article 9 of Chapter 130A of the General Statutes is repealed.

SECTION 4.2.(b) G.S. 130A-309.09A(d)(8) is repealed.

SECTION 4.2.(c) G.S. 130A-309.10 reads as rewritten.

"**§ 130A-309.10. Prohibited acts relating to packaging; coded labeling of plastic containers required; disposal of certain solid wastes in landfills or by incineration prohibited.**

...

(f) No person shall knowingly dispose of the following solid wastes in landfills:

(1) Repealed by Session Laws 1991, c. 375, s. 1.

(2) Used oil.

(3) Yard trash, except in landfills approved for the disposal of yard trash under rules adopted by the Commission. Yard trash that is source separated from solid waste may be accepted at a solid waste disposal area where the area provides and maintains separate yard trash composting facilities.

(4) White goods.

(5) Antifreeze (ethylene glycol).

(6) Aluminum cans.

(7) Whole scrap tires, as provided in G.S. 130A-309.58(b). The prohibition on disposal of whole scrap tires in landfills applies to all whole pneumatic rubber coverings, but does not apply to whole solid rubber coverings.

(8) Lead-acid batteries, as provided in G.S. 130A-309.70.

(9) Repealed by Session Laws 2011-394, s. 4, effective July 1, 2011.

(10) Motor vehicle oil filters.

(11) Recyclable rigid plastic containers that are required to be labeled as provided in subsection (e) of this section, that have a neck smaller than the body of the container, and that accept a screw top, snap cap, or other closure. The prohibition on disposal of recyclable rigid plastic containers in landfills does

not apply to rigid plastic containers that are intended for use in the sale or distribution of motor oil or pesticides.

(12) Wooden pallets, except that wooden pallets may be disposed of in a landfill that is permitted to only accept construction and demolition debris.

(13) Oyster shells.

(14) Discarded computer equipment.~~equipment, as defined in G.S. 130A-309.131.~~ For purposes of this section, "computer" means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device that has all of the following features:

a. Performs logical, arithmetic, and storage functions for general purpose needs that are met through interaction with a number of software programs contained in the computer.

b. Is not designed to exclusively perform a specific type of limited or specialized application.

c. Achieves human interface through a keyboard, display unit, and mouse or other pointing device.

d. Is designed for a single user.

(15) Discarded televisions.~~televisions, as defined in G.S. 130A-309.131.~~ For purposes of this section, "television" means any electronic device that contains a tuner that locks on to a selected carrier frequency and is capable of receiving and displaying of television or video programming via broadcast, cable, or satellite, including, without limitation, any direct view or projection television with a viewable screen of nine inches or larger whose display technology is based on cathode ray tube (CRT), plasma, liquid crystal display (LCD), digital light processing (DLP), liquid crystal on silicon (LCOS), silicon crystal reflective display (SXRD), light emitting diode (LED), or similar technology marketed and intended for use by a consumer primarily for personal purposes. The term does not include computer equipment.

(f1) No person shall knowingly dispose of the following solid wastes by incineration in an incinerator for which a permit is required under this Article:

(1) Antifreeze (ethylene glycol) used solely in motor vehicles.

(2) Aluminum cans.

(3) Repealed by Session Laws 1995 (Regular Session, 1996), c. 594, s. 17.

(4) White goods.

(5) Lead-acid batteries, as provided in G.S. 130A-309.70.

(6) Repealed by Session Laws 2011-394, s. 4, effective July 1, 2011.

(7) Discarded computer equipment.~~equipment, as defined in G.S. 130A-309.131.~~

(8) Discarded televisions.~~televisions, as defined in G.S. 130A-309.131.~~

...."

PROHIBIT IMPLEMENTATION AND ENFORCEMENT OF FEDERAL STANDARDS FOR WOOD HEATERS AND FOR FUEL SOURCES THAT PROVIDE HEAT OR HOT WATER TO A RESIDENCE OR BUSINESS

SECTION 4.3.(a) G.S. 143-215.107 reads as rewritten:

"**§ 143-215.107. Air quality standards and classifications.**

(a) Duty to Adopt Plans, Standards, etc. – The Commission is hereby directed and empowered, as rapidly as possible within the limits of funds and facilities available to it, and subject to the procedural requirements of this Article and Article 21:

...

(10) ~~To~~ Except as provided in subsections (h) and (i) of this section, to develop and adopt standards and plans necessary to implement requirements of the federal Clean Air Act and implementing regulations adopted by the United States Environmental Protection Agency.

...

(h) With respect to any regulation adopted by the United States Environmental Protection Agency limiting emissions from wood heaters and adopted after May 1, 2014, neither the Commission nor the Department shall do any of the following:

(1) Issue rules limiting emissions from wood heaters to implement the federal regulations described in this subsection.

(2) Enforce against a manufacturer, distributor, or consumer the federal regulations described in this subsection.

(i) Neither the Commission nor the Department shall enforce any federal air emissions standard adopted by the United States Environmental Protection Agency after May 1, 2014, that would jeopardize the health, safety, or economic well-being of a citizen of this State through the regulation of fuel combustion that is used directly or indirectly to provide (i) hot water or comfort heating to a residence or (ii) comfort heating to a business."

SECTION 4.3.(b) G.S. 143-213 is amended by adding a new subdivision to read:

"(31) "Wood heater" means a fireplace, wood stove, pellet stove, wood-fired hydronic heater, wood-burning forced-air furnace, or masonry wood heater or other similar appliance designed for heating a residence or business or for heating water for use by a residence through the combustion of wood or products substantially composed of wood."

AMEND PROCESS FOR STATE ADOPTION OF FEDERAL AIR QUALITY STANDARDS

SECTION 4.4.(a) 15A NCAC 02D .0524(c) (New Source Performance Standards). – Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to Section 4.4(c) of this act, the Commission and the Department of Environment and Natural Resources shall implement 15A NCAC 02D .0524(c) (New Source Performance Standards) as provided in Section 4.4(b) of this act.

SECTION 4.4.(b) Implementation. – Notwithstanding 15A NCAC 02D .0524(c) (New Source Performance Standards), the Commission shall not adopt a new source performance standard promulgated in Part 60 of Title 40 of the Code of Federal Regulations except by a three-fifths vote of the Commission. If the Commission adopts new source performance standards promulgated in Part 60 of Title 40 of the Code of Federal Regulations as provided in this section, those rules shall be subject to legislative review as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 4.4.(c) Additional Rule-Making Authority. – The Environmental Management Commission shall adopt a rule to amend 15A NCAC 02D .0524(c) (New Source Performance Standards) consistent with Section 4.4(b) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 4.4(b) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 4.4.(d) Sunset. – Section 4.4(b) of this act expires on the date that the rule adopted pursuant to Section 4.4(c) of this act becomes effective.

SECTION 4.5.(a) 15A NCAC 02D .1111(c) (Maximum Achievable Control Technology). – Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to Section 4.5(c) of this act, the Commission and the Department of Environment and Natural Resources shall implement 15A NCAC 02D .1111(c) (Maximum Achievable Control Technology) as provided in Section 4.5(b) of this act.

SECTION 4.5.(b) Implementation. – Notwithstanding 15A NCAC 02D .1111(c) (Maximum Achievable Control Technology), the Commission shall not adopt maximum achievable control technology standards promulgated in Part 63 of Title 40 of the Code of Federal Regulations except by a three-fifths vote of the Commission. If the Commission adopts maximum achievable control technology standards promulgated in Part 63 of Title 40 of the Code of Federal Regulations as provided in this section, those rules shall be subject to legislative review as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 4.5.(c) Additional Rule-Making Authority. – The Environmental Management Commission shall adopt a rule to amend 15A NCAC 02D .1111(c) (Maximum Achievable Control Technology) consistent with Section 4.5(b) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 4.5(b) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 4.5.(d) Sunset. – Section 4.5(b) of this act expires on the date that the rule adopted pursuant to Section 4.5(c) of this act becomes effective.

SECTION 4.6.(a) 15A NCAC 02D .1110(b) (National Emissions Standards for Hazardous Air Pollutants). – Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to Section 4.6(c) of this act, the Commission and the Department of Environment and Natural Resources shall implement 15A NCAC 02D .1110(b) (National Emissions Standards for Hazardous Air Pollutants) as provided in Section 4.6(b) of this act.

SECTION 4.6.(b) Implementation. – 15A NCAC 02D .1110(b) (National Emissions Standards for Hazardous Air Pollutants), the Commission shall not adopt national emissions standards for hazardous air pollutants promulgated in Part 61 of Title 40 of the Code of Federal Regulations except by a three-fifths vote of the Commission. If the Commission adopts national emissions standards for hazardous air pollutants promulgated in Part 61 of Title 40 of the Code of Federal Regulations as provided in this section, those rules shall be subject to legislative review as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 4.6.(c) Additional Rule-Making Authority. – The Environmental Management Commission shall adopt a rule to amend 15A NCAC 02D .1110(b) (National Emissions Standards for Hazardous Air Pollutants) consistent with Section 4.6(b) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 4.6(b) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 4.6.(d) Sunset. – Section 4.6(b) of this act expires on the date that the rule adopted pursuant to Section 4.6(c) of this act becomes effective.

SECTION 4.6A. Effective January 1, 2016, the Environmental Management Commission shall not enforce any federal standard that was adopted by reference pursuant to 15A NCAC 02D .0524(c), 15A NCAC 02D .1111(c), and 15A NCAC 02D .1110(b) until such standards are readopted by the Commission as provided in Sections 4.4, 4.5, and 4.6 of this act.

AMEND RISK-BASED REMEDIATION PROVISIONS

SECTION 4.7. Part 8 of Article 9 of Chapter 130A of the General Statutes reads as rewritten:

"Part 8. Risk-Based Environmental Remediation of ~~Industrial~~ Sites.

"**§ 130A-310.65. Definitions.**

As used in this Part:

(1) "Background standard" means the naturally occurring concentration of a substance in the absence of the release of a contaminant.

(2) Repealed by Session Laws 2014-122, s. 11(i), effective September 20, 2014.

(3) "Contaminant" means any substance regulated under any program listed in G.S. 130A-310.67(a).

(3a) "Contaminated off-site property" means property under separate ownership from the contaminated site that is contaminated as a result of a release or migration of contaminants at the contaminated site.

(4) "Contaminated ~~industrial~~ site" or "site" means any real property that ~~meets all of the following criteria:~~

~~a.~~ ~~The property~~ is contaminated and may be subject to remediation under any of the programs or requirements set out in G.S. 130A-310.67(a).

~~b.~~ ~~The property is or has been used primarily for manufacturing or other industrial activities for the production of a commercial product. This includes a property used primarily for the generation of electricity.~~

~~c.~~ ~~No contaminant associated with activities at the property is located off of the property at the time the remedial action plan is submitted.~~

~~d.~~ ~~No contaminant associated with activities at the property will migrate to any adjacent properties above unrestricted use standards for the contaminant.~~

(5) "Contamination" means a contaminant released into an environmental medium that has resulted in or has the potential to result in an increase in the concentration of the contaminant in the environmental medium in excess of unrestricted use standards.

(6) "Fund" means the ~~Inactive Hazardous Sites Cleanup~~ Risk-Based Remediation Fund established pursuant to ~~G.S. 130A-310.11.~~G.S. 130A-310.76.

(7) "Institutional controls" means nonengineered measures used to prevent unsafe exposure to contamination, such as land-use restrictions.

(8) "Registered environmental consultant" means an environmental consulting or engineering firm approved to implement and oversee voluntary remedial actions pursuant to Part 3 of Article 9 of Chapter 130A of the General Statutes and rules adopted to implement the Part.

(9) "Remedial action plan" means a plan for eliminating or reducing contamination or exposure to contamination.

(10) "Remediation" means all actions that are necessary or appropriate to clean up, mitigate, correct, abate, minimize, eliminate, control, or prevent the spreading, migration, leaking, leaching, volatilization, spilling, transport, or

further release of a contaminant into the environment in order to protect public health, safety, or welfare or the environment.

(11) "Systemic toxicant" means any substance that may enter the body and have a harmful effect other than causing cancer.

(12) "Unrestricted use standards" means contaminant concentrations for each environmental medium that are acceptable for all uses; that are protective of public health, safety, and welfare and the environment; and that comply with generally applicable standards, guidance, or methods established by statute or adopted, published, or implemented by the Commission or the Department.

"§ 130A-310.66. Purpose.

It is the purpose of this Part to authorize the Department to approve the remediation of contaminated ~~industrial~~ sites based on site-specific remediation standards in circumstances where site-specific remediation standards are adequate to protect public health, safety, and welfare and the environment and are consistent with protection of current and anticipated future use of groundwater and surface water affected or potentially affected by the contamination.

"§ 130A-310.67. Applicability.

(a) This Part applies to contaminated ~~industrial~~ sites subject to remediation pursuant to any of the following programs or requirements:

(1) The Inactive Hazardous Sites Response Act of 1987 under Part 3 of Article 9 of Chapter 130A of the General Statutes, including voluntary actions under G.S. 130A-310.9 of that act, and rules promulgated pursuant to those statutes.

(2) The hazardous waste management program administered by the State pursuant to the federal Resource Conservation and Recovery Act of 1976, Public Law 94-580, 90 Stat. 2795, 42 U.S.C. § 6901, et seq., as amended, and Article 9 of Chapter 130A of the General Statutes.

(3) The solid waste management program administered pursuant to Article 9 of Chapter 130A of the General Statutes.

(4) The federal Superfund program administered in part by the State pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Public Law 96-510, 94 Stat. 2767, 42 U.S.C. § 9601, et seq., as amended, the Superfund Amendments and Reauthorization Act of 1986, Public Law 99-499, 100 Stat. 1613, as amended, and under Part 4 of Article 9 of Chapter 130A of the General Statutes.

(5) The groundwater protection corrective action requirements adopted by the Commission pursuant to Article 21 of Chapter 143 of the General Statutes.

(6) Oil Pollution and Hazardous Substances Control Act of 1978, Parts 1 and 2 of Article 21A of Chapter 143 of the General ~~Statutes.~~Statutes, except with respect to those sites identified in subdivision (1a) of subsection (b) of this section.

(b) This Part shall not apply to contaminated ~~industrial~~ sites subject to remediation pursuant to any of the following programs or requirements:

(1) The Leaking Petroleum Underground Storage Tank Cleanup program under Part 2A of Article 21A of Chapter 143 of the General Statutes and rules promulgated pursuant to that statute.

(2) The Dry-Cleaning Solvent Cleanup program under Part 6 of Article 21A of Chapter 143 of the General Statutes and rules promulgated pursuant to that statute.

(3) The pre-1983 landfill assessment and remediation program established under G.S. 130A-310.6(c) through (g).

(4) The Coal Ash Management Act of 2014 under Part 2I of Article 9 of Chapter 130A of the General Statutes and rules promulgated pursuant to that Part.

~~(c) This Part shall apply only to sites where a discharge, spill, or release of contamination has been reported to the Department prior to March 1, 2011.~~

...

"§ 130A-310.71. Review and approval of proposed remedial action plans.

(a) The Department shall review and approve a proposed remedial action plan consistent with the remediation standards set out in G.S. 130A-310.68 and the procedures set out in this section. In its review of a proposed remedial action plan, the Department shall do all of the following:

(1) Determine whether site-specific remediation standards are appropriate for a particular contaminated site. In making this determination, the Department shall consider proximity of the contamination to water supply wells or other receptors; current and probable future reliance on the groundwater as a water supply; current and anticipated future land use; environmental impacts; and the feasibility of remediation to unrestricted use standards.

(2) Determine whether the party conducting the remediation has adequately demonstrated through modeling or other scientific means acceptable to the Department that no contamination will migrate to ~~adjacent~~ off-site property at levels above unrestricted use ~~standards.~~standards, except as may remain pursuant to a cleanup conducted pursuant to G.S. 130A-310.73A(a)(2).

(3) Determine whether the proposed remedial action plan meets the requirements of G.S. 130A-310.69.

(4) Determine whether the proposed remedial action plan meets the requirements of any other applicable remediation program except those pertaining to remediation standards.

(5) Establish the acceptable level or range of levels of risk to public health, safety, and welfare and to the environment.

(6) Establish, for each contaminant, the maximum allowable quantity, concentration, range, or other measures of contamination that will remain at the contaminated site at the conclusion of the contaminant-reduction phase of the remediation.

(7) Consider the technical performance, effectiveness, and reliability of the proposed remedial action plan in attaining and maintaining compliance with applicable remediation standards.

(8) Consider the ability of the person who proposes to remediate the site to implement the proposed remedial action plan within a reasonable time and without jeopardizing public health, safety, or welfare or the environment.

(9) Determine whether the proposed remedial action plan adequately provides for the imposition and maintenance of engineering and institutional controls and for sampling, monitoring, and reporting requirements necessary to protect public health, safety, and welfare and the environment. In making this determination, the Department may consider, in lieu of land-use restrictions authorized under G.S. 130A-310.69, reliance on other State or local land-use controls. Any land-use controls implemented shall adequately protect public health, safety, and welfare and the environment and provide adequate notice to current and future property owners of any residual contamination and the land-use controls in place.

(10) Approve the circumstances under which no further remediation is required.

(b) The person who proposes a remedial action plan has the burden of demonstrating with reasonable assurance that contamination from the site will not migrate to ~~adjacent~~ off-site

property above unrestricted use ~~levels~~ levels, except as may remain pursuant to a cleanup conducted pursuant to G.S. 130A-310.73A(a)(2), and that the remedial action plan is protective of public health, safety, and welfare and the environment by virtue of its compliance with this Part. The demonstration shall (i) take into account actions proposed in the remedial action plan that will prevent contamination from migrating off the site; and (ii) use scientifically valid site-specific data.

(c) The Department may require a person who proposes a remedial action plan to supply any additional information necessary for the Department to approve or disapprove the plan.

(d) In making a determination on a proposed remedial action plan, the Department shall consider the information provided by the person who proposes the remedial action plan as well as information provided by local governments and adjoining landowners pursuant to G.S. 130A-310.70. The Department shall disapprove a proposed remedial action plan unless the Department finds that the plan is protective of public health, safety, and welfare and the environment and complies with the requirements of this Part. If the Department disapproves a proposed remedial action plan, the person who submitted the plan may seek review as provided in Article 3 of Chapter 150B of the General Statutes. If the Department fails to approve or disapprove a proposed remedial action plan within 120 days after a complete plan has been submitted, the person who submitted the plan may treat the plan as having been disapproved at the end of that time period.

(e) If, pursuant to subdivision (9) of subsection (a) of this section, reliance on other State or local land-use controls is approved by the Department in lieu of land-use restrictions, a "Notice of Residual Contamination" shall be prepared and filed in the chain of title of each contaminated site or contaminated off-site property where any contamination has or will in the future exceed unrestricted use standards. The Notice shall identify the type of contamination on the site or property and the land-use controls that address the contamination and may be filed by the person who proposes to remediate the site. Provided, however, the Department may only approve imposition of land-use controls on contaminated off-site property with the written consent of the owner of the property in conformance with G.S. 130A-310.73A(a)(2).

...

"§ 130A-310.73. Attainment of the remediation standards.

(a) Compliance with the approved remediation standards is attained for a site or portion of a site when a remedial action plan approved by the Department has been implemented and applicable soil, groundwater, surface water, and air emission standards have been attained. The remediation standards may be attained through a combination of remediation activities that can include treatment, removal, engineering, or institutional controls, except that the person conducting the remediation may not demonstrate attainment of ~~an unrestricted use~~a remediation standard ~~or a background standard~~ through the use of institutional controls ~~alone.~~that result in an incompatible use of the property relative to surrounding land uses. When the remedial action plan has been fully implemented, the person conducting the remediation shall submit a final report to the Department, with notice to all local governments with taxing and land-use jurisdiction over the site, that demonstrates that the remedial action plan has been fully implemented, that any land-use restrictions have been certified on an annual basis, and that the remediation standards have been attained. The final report shall be accompanied by a request that the Department issue a determination that no further remediation beyond that specified in the approved remedial action plan is required.

(b) The person conducting the remediation has the burden of demonstrating that the remedial action plan has been fully implemented and that the remediation standards have been attained in compliance with the requirements of this Part. The Department may require a person who implements the remedial action plan to supply any additional information necessary for the Department to determine whether the remediation standards have been attained.

(c) The Department shall review the final report, and, upon determining that the person conducting the remediation has completed remediation to the approved remediation standard and met all the requirements of the approved remedial action plan, the Department shall issue a determination that no further remediation beyond that specified in the approved remedial action plan is required at the site. Once the Department has issued a no further action determination, the Department may require additional remedial action by the responsible party only upon finding any of the following:

(1) Monitoring, testing, or analysis of the site subsequent to the issuance of the no further action determination indicates that the remediation standards and objectives were not achieved or are not being maintained.

(2) One or more of the conditions, restrictions, or limitations imposed on the site as part of the remediation have been violated.

(3) Site monitoring or operation and maintenance activities that are required as part of the remedial action plan or no further action determination for the site are not adequately funded or are not adequately implemented.

(4) A contaminant or hazardous substance release is discovered at the site that was not the subject of the remedial investigation report or the remedial action plan.

(5) A material change in the facts known to the Department at the time the written no further action determination was issued, or new facts, cause the Department to find that further assessment or remediation is necessary to prevent a significant risk to human health and safety or to the environment.

(6) The no further action determination was based on fraud, misrepresentation, or intentional nondisclosure of information by the person conducting the ~~remediation.~~remediation or that person's agents, contractors, or affiliates.

(7) Installation or use of wells would induce the flow of contaminated groundwater off the ~~site.~~contaminated site, as defined in the remedial action plan.

(d) The Department shall issue a final decision on a request for a determination that remediation has been completed to approved standards and that no further remediation beyond that specified in the approved remedial action plan is required within 180 days after receipt of a complete final report. Failure of the Department to issue a final decision on a no further remediation determination within 180 days after receipt of a complete final report and request for a determination of no further remediation may be treated as a denial of the request for a no further remediation determination. The responsible person may seek review of a denial of a request for a release from further remediation as provided in Article 3 of Chapter 150B of the General Statutes.

"**§ 130A-310.73A. Remediation of sites with off-site migration of contaminants.**

(a) Contaminated sites at which contamination has migrated to off-site properties may be remediated pursuant to this Part if either of the following occur:

(1) The person who proposes to conduct the remediation pursuant to this Part remediates the contaminated off-site property to unrestricted use standards.

(2) The person who proposes to conduct the remediation pursuant to this Part (i) provides the owner of the contaminated off-site property with a copy of this Part and the publication produced by the Department pursuant to subsection (b) of this section and (ii) obtains written consent from the owner of the contaminated off-site property for the person to remediate the contaminated off-site property using site-specific remediation standards pursuant to this Part. Provided that the site-specific remediation standards shall not allow concentrations of contaminants on the off-site property to increase above the levels present on the date the written consent is obtained. Written consent

from the owner of the off-site property shall be on a form prescribed by the Department and include an affirmation that the owner has received and read the publication and authorizes the person to remediate the owner's property using site-specific remediation standards pursuant to this Part.

(b) In order to inform owners of contaminated off-site property of the issues and liabilities associated with the contamination on their property, the Department, in consultation with the Consumer Protection Division of the North Carolina Department of Justice and the North Carolina Real Estate Commission, shall develop and make available a publication entitled "Contaminated Property: Issues and Liabilities" to provide information on the nature of risk-based remediation and how it differs from remediation to unrestricted use standards, potential health impacts that may arise from residual contamination, as well as identification of liabilities that arise from contaminated property and associated issues, including potential impacts to real estate transactions and real estate financing. The Department shall update the publication as necessary.

(c) If, after issuance of a no further action determination, the Department determines that additional remedial action is required for a contaminated off-site property pursuant to G.S. 130A-310.73(c), the responsible party shall be liable for the additional remediation deemed necessary.

(d) Nothing in this section shall be construed to preclude or impair any person from obtaining any and all other remedies allowed by law.

...."

SECTION 4.8.(a) No later than January 1, 2016, the Department of Environment and Natural Resources shall do all of the following:

(1) Develop internal processes to govern remediation of contaminated industrial sites conducted under this Part that are consistent across all programs or requirements identified in subsection (a) of G.S. 130A-310.67.

(2) Develop a coordinated program and processes for remediation of contaminated industrial sites conducted under this Part that are subject to more than one program or requirement identified in subsection (a) of G.S. 130A-310.67.

(3) Develop reforms to expand the role, and otherwise enhance the use of, registered environmental consultants approved to implement and oversee voluntary remedial actions pursuant to this Part.

SECTION 4.8.(b) No later than April 1, 2016, the Department shall report to the Environmental Review Commission on its activities conducted pursuant to subsection (a) of this section, together with any pertinent findings or recommendations, including any legislative proposals that it deems advisable.

AMEND THE LAW GOVERNING BROWNFIELDS REDEVELOPMENT TO CONFORM CLASSES OF PERSONS ELIGIBLE TO PARTICIPATE TO THOSE AUTHORIZED UNDER FEDERAL LAW

SECTION 4.9.(a) G.S. 130A-310.31(b)(10) reads as rewritten:

"**§ 130A-310.31. Definitions.**

(a) Unless a different meaning is required by the context or unless a different meaning is set out in subsection (b) of this section, the definitions in G.S. 130A-2 and G.S. 130A-310 apply throughout this Part.

(b) Unless a different meaning is required by the context:

...

(10) "Prospective developer" ~~means any person with a bona fide, demonstrable desire to either buy or sell a brownfields property for the purpose of developing or redeveloping that brownfields property and who did not cause~~

~~or contribute to the contamination at the brownfields property.~~includes "bona fide prospective purchasers," "contiguous property owners," and "innocent landowners," as those terms are defined under the Small Business Liability Relief and Brownfields Revitalization Act (Pub. L. No. 107-118, 115 stat. 2356), 42 U.S.C. § 9601."

SECTION 4.9.(b) This section becomes effective July 1, 2015, and applies to Notices of Intent to Redevelop a Brownfields Property filed on or after that date.

ELIMINATE OUTDATED FEES RELATED TO SOLID WASTE MATTERS

SECTION 4.10.(a) G.S. 105-102.6 is repealed.

SECTION 4.10.(b) G.S. 130A-309.17(d) and (i) are repealed.

REPEAL ENERGY AUDIT REQUIREMENTS

SECTION 4.11. G.S. 143-64.12 reads as rewritten:

"**§ 143-64.12. Authority and duties of the Department; State agencies and State institutions of higher learning.**

(a) The Department of Environment and Natural Resources through the State Energy Office shall develop a comprehensive program to manage energy, water, and other utility use for State agencies and State institutions of higher learning and shall update this program annually. Each State agency and State institution of higher learning shall develop and implement a management plan that is consistent with the State's comprehensive program under this subsection to manage energy, water, and other utility use, and that addresses any findings or recommendations resulting from the energy audit required by subsection (b1) of this section. The energy consumption per gross square foot for all State buildings in total shall be reduced by twenty percent (20%) by 2010 and thirty percent (30%) by 2015 based on energy consumption for the 2002-2003 fiscal year. Each State agency and State institution of higher learning shall update its management plan biennially and include strategies for supporting the energy consumption reduction requirements under this subsection. Each community college shall submit to the State Energy Office a biennial written report of utility consumption and costs. Management plans submitted biennially by State institutions of higher learning shall include all of the following:

(1) Estimates of all costs associated with implementing energy conservation measures, including pre-installation and post-installation costs.

(2) The cost of analyzing the projected energy savings.

(3) Design costs, engineering costs, pre-installation costs, post-installation costs, debt service, and any costs for converting to an alternative energy source.

(4) An analysis that identifies projected annual energy savings and estimated payback periods.

(a1) State agencies and State institutions of higher learning shall carry out the construction and renovation of facilities in such a manner as to further the policy set forth under this section and to ensure the use of life-cycle cost analyses and practices to conserve energy, water, and other utilities.

(b) The Department of Administration shall develop and implement policies, procedures, and standards to ensure that State purchasing practices improve efficiency regarding energy, water, and other utility use and take the cost of the product over the economic life of the product into consideration. The Department of Administration shall adopt and implement Building Energy Design Guidelines. These guidelines shall include energy-use goals and standards, economic assumptions for life-cycle cost analysis, and other criteria on building systems and technologies. The Department of Administration shall modify the design criteria for construction and renovation of facilities of State buildings and State institutions of

higher learning buildings to require that a life-cycle cost analysis be conducted pursuant to G.S. 143-64.15.

(b1) The Department of Administration, as part of the Facilities Condition and Assessment Program, shall identify and recommend energy conservation maintenance and operating procedures that are designed to reduce energy consumption within the facility of a State agency or a State institution of higher learning and that require no significant expenditure of funds. Every State agency or State institution of higher learning shall implement these recommendations. Where energy management equipment is proposed for any facility of a State agency or of a State institution of higher learning, the maximum interchangeability and compatibility of equipment components shall be required. ~~As part of the Facilities Condition and Assessment Program under this section, the Department of Administration, in consultation with the State Energy Office, shall develop an energy audit and a procedure for conducting energy audits. Every five years the Department shall conduct an energy audit for each State agency or State institution of higher learning, and the energy audits conducted shall serve as a preliminary energy survey. The State Energy Office shall be responsible for system-level detailed surveys.~~

~~(b2) The Department of Administration shall submit a report of the energy audit required by subsection (b1) of this section to the affected State agency or State institution of higher learning and to the State Energy Office. The State Energy Office shall review each audit and, in consultation with the affected State agency or State institution of higher learning, incorporate the audit findings and recommendations into the management plan required by subsection (a) of this section.~~

...

(j) The State Energy Office shall submit a report by December 1 of every odd-numbered year to the Joint Legislative Energy Policy Commission describing the comprehensive program to manage energy, water, and other utility use for State agencies and State institutions of higher learning required by subsection (a) of this section. The report shall also contain the following:

(1) A comprehensive overview of how State agencies and State institutions of higher learning are managing energy, water, and other utility use and achieving efficiency gains.

(2) Any new measures that could be taken by State agencies and State institutions of higher learning to achieve greater efficiency gains, including any changes in general law that might be needed.

(3) A summary of the State agency and State institutions of higher learning management plans required by subsection (a) of this ~~section and the energy audits required by subsection (b1) of this~~ section.

(4) A list of the State agencies and State institutions of higher learning that did and did not submit management plans required by subsection (a) of this ~~section and a list of the State agencies and State institutions of higher learning that received an energy audit.~~section.

(5) Any recommendations on how management plans can be better managed and implemented."

DELETE OR REPEAL VARIOUS ENVIRONMENTAL AND NATURAL RESOURCES REPORTING REQUIREMENTS

SECTION 4.12.(a) G.S. 113-175.6 is repealed.

SECTION 4.12.(b) G.S. 113-182.1(e) reads as rewritten:

"**§ 113-182.1. Fishery Management Plans.**

...

(e) The Secretary of Environment and Natural Resources shall monitor progress in the development and adoption of Fishery Management Plans in relation to the Schedule for development and adoption of the plans established by the Marine Fisheries Commission. ~~The Secretary of Environment and Natural Resources shall report to the Joint Legislative Commission on Governmental Operations on progress in developing and implementing the Fishery Management Plans on or before 1 September of each year.~~ The Secretary of Environment and Natural Resources shall report to the Joint Legislative Commission on Governmental Operations within 30 days of the completion or substantial revision of each proposed Fishery Management Plan. The Joint Legislative Commission on Governmental Operations shall review each proposed Fishery Management Plan within 30 days of the date the proposed Plan is submitted by the Secretary. The Joint Legislative Commission on Governmental Operations may submit comments and recommendations on the proposed Plan to the Secretary within 30 days of the date the proposed Plan is submitted by the Secretary."

SECTION 4.12.(c) G.S. 143B-279.15 is repealed.

SECTION 4.12.(d) G.S. 143B-289.44(d) is repealed.

SECTION 4.12.(e) G.S. 159I-29 is repealed.

SECTION 4.12.(f) Section 2.3 of S.L. 2007-485 is repealed.

ON-SITE WASTEWATER AMENDMENTS AND CLARIFICATIONS

SECTION 4.14.(a) G.S. 130A-334 reads as rewritten:

"**§ 130A-334. Definitions.**

The following definitions shall apply throughout this Article:

(1) "Accepted wastewater system" has the same meaning as in G.S. 130A-343.

~~(1)~~(1a) "Construction" means any work at the site of placement done for the purpose of preparing a residence, place of business or place of public assembly for initial occupancy, or subsequent additions or modifications which increase sewage flow.

(1b) "Conventional wastewater system" has the same meaning as in G.S. 130A-343.

~~(1a)~~(1c) "Department" means the Department of Health and Human Services.

~~(1b)~~(1d) "Ground absorption system" means a system of tanks, treatment units, nitrification fields, and appurtenances for wastewater collection, treatment, and subsurface disposal.

(2) Repealed by Session Laws 1985, c. 462, s. 18.

(2a) "Industrial process wastewater" means any water-carried waste resulting from any process of industry, manufacture, trade, or business.

(2b) "Licensed soil scientist" has the same meaning as in G.S. 89F-3.

(3) "Location" means the initial placement for occupancy of a residence, place of business or place of public assembly.

(3a) "Maintenance" means normal or routine maintenance including replacement of broken pipes, cleaning, or adjustment to an existing wastewater system.

(4), (5) Repealed by Session Laws 1985, c. 462, s. 18.

(6) "Place of business" means a store, warehouse, manufacturing establishment, place of amusement or recreation, service station, office building or any other place where people work.

(7) "Place of public assembly" means a fairground, auditorium, stadium, church, campground, theater or any other place where people assemble.

(7a) "Plat" means a property survey prepared by a registered land surveyor, drawn to a scale of one inch equals no more than 60 feet, that includes: the specific location of the proposed facility and appurtenances, the site for the proposed wastewater system, and the location of water supplies and surface

waters. "Plat" also means, for subdivision lots approved by the local planning authority if a local planning authority exists at the time of application for a permit under this Article, a copy of the subdivision plat that has been recorded with the county register of deeds and is accompanied by a site plan that is drawn to scale.

(7b) "Pretreatment" means any biological, chemical, or physical process or system for improving wastewater quality and reducing wastewater constituents prior to final treatment and disposal in a subsurface wastewater system and includes, but is not limited to aeration, clarification, digestion, disinfection, filtration, separation, and settling.

(7c) "Private option permit" means approval of an on-site wastewater system by a professional engineer who has both expertise and education in civil or environmental engineering and who has designed the wastewater system acting under the authority of the owner thereof.

(7d) "Professional engineer" has the same meaning as in G.S. 89C-3.

(8) "Public or community wastewater system" means a single system of wastewater collection, treatment and disposal owned and operated by a sanitary district, a metropolitan sewage district, a water and sewer authority, a county or municipality or a public utility.

(9) "Relocation" means the displacement of a residence or place of business from one site to another.

(9a) "Repair" means the extension, alteration, replacement, or relocation of existing components of a wastewater system.

(10) "Residence" means a private home, dwelling unit in a multiple family structure, hotel, motel, summer camp, labor work camp, manufactured home, institution or any other place where people reside.

(10a) "Secretary" means the Secretary of Environment and Natural Resources.

(11) Repealed by Session Laws 1992, c. 944, s. 3.

(12) "Septic tank system" means a subsurface wastewater system consisting of a settling tank and a subsurface disposal field.

(13) "Sewage" means the liquid and solid human body waste and liquid waste generated by water-using fixtures and appliances, including those associated with foodhandling. The term does not include industrial process wastewater or sewage that is combined with industrial process wastewater.

(13a) "Site plan" means a drawing not necessarily drawn to scale that shows the existing and proposed property lines with dimensions, the location of the facility and appurtenances, the site for the proposed wastewater system, and the location of water supplies and surface waters.

(14) "Wastewater" means any sewage or industrial process wastewater discharged, transmitted, or collected from a residence, place of business, place of public assembly, or other places into a wastewater system.

(15) "Wastewater system" means a system of wastewater collection, treatment, and disposal in single or multiple components, including a ground absorption system, privy, septic tank system, public or community wastewater system, wastewater reuse or recycle system, mechanical or biological wastewater treatment system, any other similar system, and any chemical toilet used only for human waste. A wastewater system located on multiple adjoining lots or tracts of land under common ownership or control shall be considered a single system for purposes of permitting under this Article."

SECTION 4.14.(b) G.S. 130A-335 reads as rewritten:

"**§ 130A-335. Wastewater collection, treatment and disposal; rules.**

(a) A person owning or controlling a residence, place of business or a place of public assembly shall provide an approved wastewater system. Except as may be allowed under another provision of law, all wastewater from water-using fixtures and appliances connected to a water supply source shall discharge to the approved wastewater system. A wastewater system may include components for collection, treatment and disposal of wastewater.

(a1) Any proposed site for a residence, place of business, or a place of public assembly located in an area that is not served by an approved wastewater system for which a new wastewater system is proposed may be evaluated for soil conditions and site features by a licensed soil scientist. For purposes of this subsection, "site features" include topography and landscape position; soil characteristics (morphology); soil wetness; soil depth; restrictive horizons; available space; and other applicable factors that involve accepted public health principles.

(b) All wastewater systems shall either (i) be regulated by the Department under rules adopted by the Commission or (ii) conform with the private option permit criteria set forth in G.S. 130A-336.1 and under rules adopted by the Commission except for the following wastewater systems that shall be regulated by the Department under rules adopted by the Environmental Management Commission:

(1) Wastewater collection, treatment, and disposal systems designed to discharge effluent to the land surface or surface waters.

(2) Wastewater systems designed for groundwater remediation, groundwater injection, or landfill leachate collection and disposal.

(3) Wastewater systems designed for the complete recycle or reuse of industrial process wastewater.

(4) Gray water systems as defined in G.S. 143-350.

(c) A wastewater system subject to approval under rules of the Commission shall be reviewed and approved under rules of a local board of health in the following circumstances:

(1) The local board of health, on its own motion, has requested the Department to review its proposed rules concerning wastewater systems; and

(2) The local board of health has adopted by reference the wastewater system rules adopted by the Commission, with any more stringent modifications or additions deemed necessary by the local board of health to protect the public health; and

(3) The Department has found that the rules of the local board of health concerning wastewater collection, treatment and disposal systems are at least as stringent as rules adopted by the Commission and are sufficient and necessary to safeguard the public health.

(c1) The rules adopted by the Commission for wastewater systems approved under the private option permit criteria pursuant to G.S. 130A-336.1 shall be, at a minimum, as stringent as the rules for wastewater systems established by the Commission.

(d) The Department may, upon its own motion, upon the request of a local board of health or upon the request of a citizen of an affected county, review its findings under subsection (c) of this section.

The Department shall review its findings under subsection (c) of this section upon modification by the Commission of the rules applicable to wastewater systems. The Department may deny, suspend, or revoke the approval of local board of health wastewater system rules upon a finding that the local wastewater rules are not as stringent as rules adopted by the Commission, are not sufficient and necessary to safeguard the public health, or are not being enforced. Suspension and revocation of approval shall be in accordance with G.S. 130A-23.

(d1) The Department or owner of a wastewater system may file a written complaint with the North Carolina Board of Examiners for Engineers and Surveyors in accordance with rules and procedures adopted by the Board pursuant to Chapter 89C of the General Statutes citing failure of a professional engineer to adhere to the rules adopted by the Commission pursuant to this Article. The Department or owner of a wastewater system may file a written complaint with the North Carolina Board of Licensed Soil Scientists in accordance with rules and procedures adopted by the Board pursuant to Chapter 89F of the General Statutes citing failure of a licensed soil scientist to adhere to the rules adopted by the Commission pursuant to this Article.

...."

SECTION 4.14.(c) Article 11 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-336.1. Alternative process for wastewater system approvals.**

(a) Private Option Permit Authorized. – A professional engineer may, under the legal authority of the owner of a proposed wastewater system who wishes to utilize the private option permit, prepare drawings, specifications, plans, and reports that are certified and stamped with the professional engineer's seal for the design, construction, operation, and maintenance of the wastewater system in accordance with this section and rules adopted thereunder.

(b) Notice of Intent to Construct. – Prior to commencing or assisting in the construction, siting, or relocation of a wastewater system, the owner of a proposed wastewater system who wishes to utilize the private option permit, or a professional engineer authorized as the legal representative of the owner, shall submit to the local health department with jurisdiction over the location of the proposed wastewater system a notice of intent to construct a wastewater system utilizing the private permit option. The Department shall develop a common form for use as the notice of intent to construct that includes all of the following:

(1) The owner's name, address, e-mail address, and telephone number.

(2) The professional engineer's name, address, e-mail address, and telephone number.

(3) Certified copy of the wastewater system owner's contract with the professional engineer.

(4) For both the professional engineer and the licensed soil scientist, proof of errors and omissions insurance coverage or other appropriate liability insurance that has policy limits of not less than one million dollars ($1,000,000) per claim and that shall remain in force as applicable:

a. Two years following the date on which a professional engineer delivers an engineering report pursuant to subdivision (k)(1) of this section to the owner of the wastewater system; or

b. Two years following the date on which a licensed soil scientist delivers a soils report to the owner of the wastewater system.

(5) A description of the facility the proposed site is to serve and any factors that would affect the wastewater load.

(6) The type of proposed wastewater system and its location.

(7) The design wastewater flow and characteristics.

(8) Any proposed landscape, site, drainage, or soil modifications.

(9) A soil evaluation that is conducted and signed and sealed by a licensed soil scientist.

(10) A plat, as defined in G.S. 130A-334(7a).

(c) Completeness Review for Notice of Intent to Construct. – The local health department shall determine whether a notice of intent to construct, as required pursuant subsection (b) of this section, is complete within 14 days after the local health department

receives the notice of intent to construct. A determination of completeness means that the notice of intent to construct includes all of the required components. If the local health department determines that the notice of intent to construct is not complete, the department shall notify the owner or the professional engineer of the components needed to complete the notice. The owner or professional engineer may submit additional information to the department to cure the deficiencies in the notice. The local health department shall make a final determination as to whether the notice of intent to construct is complete within 10 days after the department receives the additional information from the owner or professional engineer. If the department fails to act within any time period set out in this subsection, the owner or professional engineer may treat the failure to act as a denial of the completeness of the notice of intent and may challenge the denial as provided in Chapter 150B of the General Statutes.

(d) Submission of Notice of Intent to Construct to Department for Certain Systems. – Prior to commencing in the construction, siting, or relocation of a wastewater system designed (i) for the collection, treatment, and disposal of industrial process wastewater or (ii) to treat greater than 3,000 gallons per day, the owner of a proposed wastewater system who wishes to utilize the private option permit, or a professional engineer authorized as the legal representative of the owner, shall provide to the Department a duplicate copy of the notice of intent to construct submitted to the local health department required pursuant to subsection (b) of this section.

(e) Site Design, Construction, and Activities. –

(1) The professional engineer designing the proposed wastewater system shall use recognized principles and practices of engineering and applicable rules of the Commission in the calculations and design of the wastewater system. The investigations and findings of the professional engineer shall include, at a minimum, the information required in rules adopted by the Commission pursuant to G.S. 130A-335(e). The professional engineer may, at the engineer's discretion, employ pretreatment technologies not yet approved in this State.

(2) Notwithstanding G.S. 130A-335(a1), the owner of the proposed wastewater system shall employ a licensed soil scientist to evaluate soil conditions and site features.

(3) The professional engineer designing the proposed wastewater system shall be responsible and accountable for all aspects of the construction and installation of the wastewater system, including the selection and oversight of an on-site wastewater system contractor certified pursuant to Article 5 of Chapter 90A of the General Statutes.

(4) Where the professional engineer's designs, plans, and specifications call for the installation of a conventional wastewater system, such designs, plans, and specifications shall allow for the installation of an accepted system in lieu of a conventional system in accordance with the accepted system approval.

(5) In addition to the requirements of this section, the owner and professional engineer designing the proposed wastewater system shall comply with all other applicable federal, State, and local laws, regulations, rules, and ordinances.

(f) Liability. – The licensed soil scientist evaluating the soils at the site of the proposed wastewater system shall assume all liability for the findings of the soil scientist's initial soil evaluation and final soils report. The professional engineer designing the proposed wastewater system shall assume all liability for the engineer's scope of work in the design, calculation, construction and installation, and requirements for the development of the operation and management plan for the wastewater system. The owner of the wastewater system shall assume

all liability for the proper operation and management of the wastewater system. The Department, the Department's authorized agents, or local health departments shall have no liability for wastewater systems approved under a private option permit. After the owner of the wastewater system has commenced operation of the system pursuant to subsection (m) of this section, neither the professional engineer nor the licensed soil scientist shall be held liable for any damages that result from any unapproved changes made to the wastewater system by the owner.

(g) Inspections. – The local health department may, at any time, conduct a site visit of the wastewater system.

(h) Local Authority. – This section shall not relieve the owner or operator of a wastewater system from complying with any and all modifications or additions to rules adopted by the local health department to protect public health pursuant to G.S. 130A-335(c). The local health department shall notify the owner or operator of the wastewater system of any issues of compliance related to such modifications or additions.

(i) Operations and Management. –

(1) The professional engineer designing the wastewater system shall establish a written operations and management program based on the size and complexity of the wastewater system and shall provide the owner with the operations and management program.

(2) The professional engineer shall assist the owner in the owner's selection of a water pollution control system operator. The owner shall enter into a contract with a water pollution control system operator certified pursuant to Part 1 of Article 3 of Chapter 90A of the General Statutes and who is selected from the list of certified operators maintained by the Division of Water Resources in the Department of Environment and Natural Resources for operation and maintenance of the system in accordance with rules adopted by the Commission.

(3) Any person who owns or controls the property upon which the wastewater system is located shall be responsible for the continued adherence to the operations and management program established by the professional engineer developed pursuant to subdivision (1) of this subsection.

(j) Postconstruction Conference. – The professional engineer designing the wastewater system shall hold a postconstruction conference with the owner of the wastewater system; the licensed soil scientist who performed the soils evaluation for the wastewater system; the contractor, certified pursuant to Article 5 of Chapter 90A of the General Statutes, who installed the wastewater system; the certified operator of the wastewater system, if any; and representatives from the local health department and, as applicable, the Department. The postconstruction conference shall include start-up of the wastewater system and any required verification of system design or system components.

(k) Required Documentation. –

(1) At the completion of the postconstruction conference conducted pursuant to subsection (j) of this section, the professional engineer who designed the wastewater system shall deliver to the owner signed, sealed, and dated certified copies of the engineer's report, which, for purposes of this section, shall include (i) the evaluation of soil conditions and site features as prepared by the licensed soil scientist; (ii) design and construction specifications; (iii) operator's management program manual that includes a copy of the contract entered into with the certified water pollution control system operator required pursuant to subsection (i) of this section; and (iv) any reports and findings related to the design and installation of the wastewater system.

(2) Upon reviewing the authorized professional engineer's report, the owner of the wastewater system shall sign and notarize the report as having been received.

(l) Reporting Requirements. –

(1) The owner of the wastewater system shall deliver to the local health department (i) a certified copy of the authorized professional engineer's report, (ii) a copy of the operations and management program, (iii) the fee required pursuant to subsection (n) of this section, and (iv) a notarized letter that documents the owner's acceptance of the system from the professional engineer.

(2) The owner of any wastewater system subject to subsection (d) of this section shall deliver to the Department certified copies of the engineer's report, as described in subdivision (1) of this subsection.

(m) Authorization to Operate. – Upon receipt of the documents and fees required pursuant to subdivision (1) of subsection (l) of this section, the local health department shall issue the owner a letter of confirmation that states the documents and information contained therein have been received and that the wastewater system may operate in accordance with rules adopted by the Commission.

(n) Fees. – The local health department may assess a fee of up to ten percent (10%) of the fees established to obtain an improvement permit, an authorization to construct, or an operations permit within the health department's on-site wastewater program. Fees shall be used by the local health department to conduct site inspections, to support the department's staff participation at postconstruction conference meetings, and to archive the private permit with the county register of deeds or other recordation of the wastewater system as required.

(o) Change in System Ownership. – A wastewater system authorized pursuant to this section shall not be affected by change in ownership of the site for the wastewater system, provided both the site for the wastewater system and the facility the system serves are unchanged and remain under the ownership or control of the person currently owning the wastewater system.

(p) Rule Making. – The Commission shall adopt rules to implement to the provisions of this section.

(q) Reports. – The Department shall report to the Environmental Review Commission and the Joint Legislative Oversight Committee on Health and Human Services on or before January 1, 2017, and annually thereafter, on the implementation and effectiveness of this section. For the report due on or before January 1, 2017, the Department shall specifically evaluate whether (i) the private option permit resulted in a reduction in the length of time improvement permits or authorizations to construct are pending; (ii) the private option permit resulted in increased system failures or other adverse impacts; and (iii) the private option permit resulted in new or increased environmental impacts. The Department may include recommendations, including any legislative proposals, in its reports to the Commission and Committee."

SECTION 4.14.(d) G.S. 130A-338 reads as rewritten:

"**§ 130A-338. Authorization for wastewater system construction required before other permits to be issued.**

Where construction, location or relocation is proposed to be done upon a residence, place of business or place of public assembly, no permit required for electrical, plumbing, heating, air conditioning or other construction, location or relocation activity under any provision of general or special law shall be issued until an authorization for wastewater system construction has been issued under ~~G.S. 130A-336~~G.S. 130A-336, or authorization has been obtained under ~~G.S. 130A-337(c).~~G.S. 130A-337(c), or a decision on the completeness of the notice of intent to construct is made by the local health department pursuant to G.S. 130A-336.1(c)."

SECTION 4.14.(e) G.S. 130A-339 reads as rewritten:

"**§ 130A-339. Limitation on electrical service.**

No person shall allow permanent electrical service to a residence, place of business or place of public assembly upon construction, location or relocation until the official electrical inspector with jurisdiction as provided in G.S. 143-143.2 certifies to the electrical supplier that the required improvement permit authorization for wastewater system construction and an operation permit or authorization under G.S. 130A-337(c) or the decision on the completeness of the notice of intent to construct made by the local health department pursuant to G.S. 130A-336.1(b1) has been obtained. Temporary electrical service necessary for constructing a residence, place of business or place of public assembly can be provided upon compliance with G.S. 130A-338."

SECTION 4.14.(f) The Commission for Public Health, in consultation with the Department of Health and Human Services, local health departments, and stakeholders representing the wastewater system industry, shall study the minimum on-site wastewater system inspection frequency established pursuant to Table V(a) in 15A NCAC 18A .1961 to evaluate the feasibility and desirability of eliminating duplicative inspections of on-site wastewater systems. In the conduct of its study, the Commission shall consider (i) the compliance history of wastewater systems, including whether operators' reports and laboratory reports are in compliance with Article 11 of Chapter 130A of the General Statutes and the rules adopted pursuant to that Article; (ii) alternative inspection frequencies, including the use of remote Web-based monitoring for alarm and compliance notification; (iii) whether the required verification visit conducted by local health departments shows a statistically significant justification for duplicative costs to the owner of the wastewater system; (iv) methods for notifications of changes to and expirations of operations contracts; and (v) methods for local health departments to provide certified operator management for sites that are not under contract with a water pollution control system operator certified pursuant to Part 1 of Article 3 of Chapter 90A of the General Statutes. The Commission shall report its findings and recommendations, including any legislative proposals, to the Environmental Review Commission and the Joint Legislative Oversight Committee on Health and Human Services on or before January 1, 2016.

SECTION 4.14.(g) G.S. 130A-336 reads as rewritten:

"**§ 130A-336. Improvement permit and authorization for wastewater system construction required.**

(a) Any proposed site for a residence, place of business, or place of public assembly in an area not served by an approved wastewater system shall be evaluated by either (i) the local health department in accordance with rules adopted pursuant to this ~~Article.~~Article or (ii) by a professional engineer or licensed soil scientist acting within the engineer's or soil scientist's scope of work, as applicable, and pursuant to the conditions of the private option permit in G.S. 130A-336.1. An improvement permit ~~shall be issued in compliance with the rules adopted pursuant to this Article. An improvement permit~~issued by a local health department shall include:

(1) ~~For permits that are valid without expiration, a plat or, for permits that are valid for five years,~~A plat or a site plan.
(2) A description of the facility the proposed site is to serve.
(3) The proposed wastewater system and its location.
(4) The design wastewater flow and characteristics.
(5) The conditions for any site modifications.
(6) Any other information required by the rules of the Commission.

~~The~~ Neither the improvement permit nor the authorization for wastewater system construction shall ~~not~~ be affected by change ~~in~~ of ownership of the site for the wastewater system provided both the site for the wastewater system and the facility the system serves are unchanged and

remain under the ownership or control of the person owning the facility. The improvement permit and the authorization for wastewater system construction shall remain valid once issued, without expiration, provided the design wastewater flow and characteristics and the description of the proposed facility the wastewater system will serve remains unchanged. No person shall commence or assist in the construction, location, or relocation of a residence, place of business, or place of public assembly in an area not served by an approved wastewater system unless an improvement permit and an authorization for wastewater system construction are obtained from the local health ~~department.~~department unless acting within the conditions and criteria of a private option permit pursuant to G.S. 130A-336.1. This requirement shall not apply to a manufactured residence exhibited for sale or stored for later sale and intended to be located at another site after sale.

(b) The local health department shall issue an authorization for wastewater system construction authorizing work to proceed and the installation or repair of a wastewater system when it has determined after a field investigation that the system can be installed and operated in compliance with this Article and rules adopted pursuant to this Article. ~~This authorization for wastewater system construction shall be valid for a period equal to the period of validity of the improvement permit and may be issued at the same time the improvement permit is issued.~~ No person shall commence or assist in the installation, construction, or repair of a wastewater system unless an improvement permit and an authorization for wastewater system construction have been obtained from the Department or the local health ~~department.~~department unless acting within the conditions and criteria of a private option permit pursuant to G.S. 130A-336.1. No improvement permit or authorization for wastewater system construction shall be required for maintenance of a wastewater system. The Department and the local health department may impose conditions on the issuance of an improvement permit and an authorization for wastewater system construction.

(b1) The local health department shall maintain a database of proposed wastewater systems for which both the improvement permit and construction authorization have been obtained but no commencement of activity related to the construction or installation of the wastewater system was undertaken during the five years immediately following the approval of the improvement permit and construction authorization. For those wastewater systems identified in accordance with this subsection, the local health department shall notify the applicant of alternative wastewater system technologies and options that may be employed by the applicant in lieu of the system already permitted and authorized by the department.

(c) Unless the Commission otherwise provides by rule, plans, and specifications for all wastewater systems designed for the collection, treatment, and disposal of industrial process wastewater shall be reviewed and approved by the Department prior to the issuance of an authorization for wastewater system construction by the local health department.

(d) If a local health department repeatedly fails to issue or deny improvement permits for conventional or accepted septic tank systems within 60 ~~days of~~ days, or within 90 days for provisional or innovative systems, after receiving completed applications for the permits, then the Department of Environment and Natural Resources may withhold public health funding from that local health department."

SECTION 4.14.(h) G.S. 130A-342 reads as rewritten:

"**§ 130A-342. Residential wastewater treatment systems.**

(a) Individual residential wastewater treatment systems that are approved and listed in accordance with the standards adopted by the National Sanitation Foundation, Inc. for Class I residential wastewater treatment systems, as set out in Standard 40 of the National Sanitation Foundation, Inc., (as approved 13 January 2001) as amended, shall be permitted under rules adopted by the Commission. The Commission may establish standards in addition to those set by the National Sanitation Foundation, Inc.

(b) A permitted system with a design flow of less than 1,500 gallons per day shall be operated ~~and maintained by a certified wastewater treatment facility operator.~~by a person who is a Subsurface Water Pollution Control System Operator as certified by the Water Pollution Control System Operators Certification Commission and authorized by the manufacturer of the individual residential wastewater treatment system. The Commission may establish additional standards for wastewater systems with a design flow of 1,500 gallons or greater per day.

(c) Each county, in which one or more residential wastewater treatment systems permitted pursuant to this section are in use, shall document the performance of each system and report the results to the Department annually."

SECTION 4.14.(i) This section is effective when this act becomes law, and the Commission for Public Health shall adopt or amend rules pursuant to Sections 4.14(a) through 4.14(e) of this act no later than June 1, 2016. No person shall utilize the private permit option authorized pursuant to G.S. 130A-336.1, as enacted by Section 4.14(c) of this act, however, until such time as the rules adopted by the Commission pursuant to Section 4.14(c) of this act become effective.

AMEND APPROVAL OF ON-SITE WASTEWATER SYSTEMS

SECTION 4.15.(a) G.S. 130A-343 reads as rewritten:

"**§ 130A-343. Approval of on-site subsurface wastewater systems.**

(a) Definitions. – As used in this section:

(1) "Accepted wastewater dispersal system" means any subsurface wastewater dispersal system, other than a conventional wastewater system, ~~or any technology, device, or component of a wastewater system~~ that: (i) has been previously approved as an innovative wastewater dispersal system by the Department; (ii) has been in general use in this State as an innovative wastewater dispersal system for more than five years; and (iii) has been approved by the Commission for general use or use in one or more specific applications. An accepted wastewater dispersal system may be approved for use in applications for which a conventional wastewater system is unsuitable. The Commission may impose any design, operation, maintenance, monitoring, and management requirements on the use of an accepted wastewater dispersal system that it determines to be appropriate.

(2) "~~Controlled demonstration~~Provisional wastewater system" means any wastewater system or any technology, device, or component of a wastewater system that, on the basis of (i) research acceptable ~~research, is approved by~~ to the Department or (ii) approval of the wastewater system by a nationally recognized certification body for a period that exceeds one year for research, testing, or trial use under actual field conditions in this State pursuant to a protocol that has been approved by the Department.

(3) "Conventional wastewater system", "conventional sewage system", or "conventional septic tank system" means a subsurface wastewater system that consists of a traditional septic or settling tank and a gravity-fed subsurface ~~disposal~~ dispersal field that uses washed natural stone or gravel ~~or crushed stone~~of approved size and grade and piping to distribute effluent to soil in one or more nitrification trenches and that does not include any other appurtenance.

~~(4) "Experimental wastewater system" means any wastewater system or any technology, device, or component of a wastewater system that is approved by the Department for research, testing, or limited trial use under actual field conditions in this State pursuant to a protocol that has been approved by the Department.~~

(5) "Innovative wastewater system" means any wastewater system, other than a conventional wastewater system or a provisional wastewater system, or any technology, device, or component of a wastewater system that: (i) has been demonstrated to perform in a manner equal or superior to a conventional wastewater system; (ii) is constructed of materials whose physical and chemical properties provide the strength, durability, and chemical resistance to allow the system to withstand loads and conditions as required by rules adopted by the Commission; and (iii) has been approved by the Department for general use or for one or more specific applications. An innovative wastewater system may be approved for use in applications for which a conventional wastewater system is unsuitable. The Department may impose any design, operation, maintenance, monitoring, and management requirements on the use of an innovative wastewater system that it determines to be appropriate. A wastewater system approved by a nationally recognized certification body and in compliance with the ongoing verification program of such body may submit a sampling protocol for innovative system approval that reduces the data sets required for such approval by fifty percent (50%). Such an application shall include all of the data associated with the nationally recognized certification body's verification of the system's performance.

(6) "Nationally recognized certification body" means NSF International; the International Association of Plumbing and Mechanical Officials; the Bureau of Normalization of Quebec; or another certification body for wastewater systems or system components accredited by the American National Standards Institute or the Standards Council of Canada.

(b) Adoption of Rules Governing Approvals. – The Commission shall adopt rules for the approval and permitting of ~~experimental, controlled demonstration,~~ innovative, conventional, provisional, and accepted wastewater systems. The rules shall address the criteria to be considered prior to issuing ~~a permit~~ an approval for a system, requirements for preliminary design plans and specifications that must be submitted, methodology to be used, standards for monitoring and evaluating the system, research evaluation of the system, the plan of work for monitoring system performance and maintenance, and any additional matters the Commission ~~deems appropriate.~~determines are necessary for verification of the performance of a wastewater system or system component.

(c) ~~Approved Systems.~~ Procedure for Modifications or Revocations. – The Department may modify, suspend, or revoke the approval of a wastewater system if the Department determines that the approval is based on false, incomplete, or misleading information or if the Department finds that modification, suspension, or revocation is necessary to protect public health, safety, or welfare. The Department shall provide a listing of all approved ~~experimental, controlled demonstration,~~ innovative, provisional, and accepted wastewater systems to the local health departments annually, and ~~more frequently, when the Department makes a final agency decision related to the approval of a wastewater system or the Commission adopts rules related to the~~ notify the local health departments within 30 days of any modification or revocation of an approval of a wastewater ~~system.~~system or system component.

(d) Evaluation Protocols. – The Department shall approve one or more nationally recognized protocols for the evaluation of ~~on-site subsurface~~ wastewater systems. Any protocol approved by the Department shall specify a minimum number of sites that must be evaluated and the duration of the evaluation period. At the request of a manufacturer of a wastewater system, the Department may approve an alternative protocol for use in the evaluation of the performance of the manufacturer's wastewater system. A protocol for the evaluation of ~~an~~

~~on-site subsurface~~ a wastewater system approved by the Department pursuant to this section is a scientific standard within the meaning of G.S. 150B-2(8a)h.

~~(e) Experimental Systems. – A manufacturer of a wastewater system that is intended for on-site subsurface use may apply to the Department to have the system evaluated as an experimental wastewater system as provided in this subsection. The manufacturer shall submit a proposal for evaluation of the system to the Department. The proposal for evaluation shall include the design of the system, a description of any laboratory or field research or testing that will be used to evaluate the system, a description of the research or testing protocol, and the credentials of the independent laboratory, consultant, or other entity that will be conducting the research or testing on the system. The proposal may include an evaluation of research and testing conducted in other states to the extent that the research and testing involves soil types, climate, hydrology, and other relevant conditions that are comparable to conditions in this State and if the research or testing was conducted pursuant to a protocol acceptable to the Department. The manufacturer shall enter into a contract for an evaluation of the performance of the experimental wastewater system with an independent laboratory, consultant, or other entity that has expertise in the evaluation of wastewater systems and that is approved by the Department. The manufacturer may install up to 50 experimental systems pursuant to a protocol approved by the Department on sites that are suitable for a conventional wastewater system and that have a repair area of sufficient size to allow installation of a conventional wastewater system, an approved innovative wastewater system, or an accepted wastewater system if the experimental wastewater system fails to perform properly.~~

(f) ~~Controlled Demonstration~~ Provisional Systems. – A manufacturer of a wastewater system ~~intended for on-site subsurface use~~ may apply to the Department to have the system ~~evaluated as a controlled demonstration wastewater system as provided in this subsection.~~ provisionally approved for use in this State. Any wastewater system approved based on its approval by a nationally recognized certification body must be designed and installed in a manner consistent with the system evaluated and approved by the nationally recognized certification body. The manufacturer shall submit a proposal for evaluation of the system to the Department. The proposal shall contain procedures for obtaining specified information necessary to achieve innovative status upon completion of the provisional status. The proposal for evaluation shall include the design of the system, a description of any laboratory or field research or testing that will be used to evaluate the system, a description of the research or testing protocol, and the credentials of the independent laboratory, consultant, or other entity that will be conducting the research or testing on the system. ~~If the system was evaluated as an experimental system under subsection (e) of this section, the proposal shall include the results of the evaluation.~~ The proposal may include an evaluation of research and testing conducted in other states to the extent that the research and testing involves soil types, climate, hydrology, and other relevant conditions that are comparable to conditions in this State and if the research or testing was conducted pursuant to a protocol acceptable to the Department. The manufacturer shall enter into a contract for an evaluation of the performance of the controlled demonstration wastewater system with an independent laboratory, consultant, or other entity that has expertise in the evaluation of wastewater systems and that is approved by the Department. The manufacturer may install up to 200 ~~controlled demonstration~~provisional wastewater systems ~~pursuant to a protocol approved by the Department~~ on sites that are suitable for a conventional wastewater system and that have a repair area of sufficient size to allow installation of a conventional wastewater system, an approved innovative wastewater system, or an accepted wastewater system if the ~~controlled demonstration~~ provisional wastewater system fails to perform properly. If the ~~controlled demonstration~~provisional wastewater system is intended for use on sites that are not ~~suitable, or that are provisionally suitable,~~suitable for a conventional wastewater system, the Department may approve the installation of the ~~controlled demonstration~~provisional wastewater system if the Department

determines that the manufacturer can provide an acceptable alternative method for collection, treatment, and ~~disposal~~ dispersal of the wastewater. The Department shall approve applications for provisional systems based on approval by a nationally recognized certification body within 90 days of receipt of a complete application. A manufacturer that chooses to remove its product from the nationally recognized standard during the provisional approval may continue its application in this State pursuant to requirements and procedures established by the Department.

(g) Innovative Systems. – A manufacturer of a wastewater system for on-site subsurface use ~~that has been evaluated as an experimental~~may apply for and be considered for innovative system status by the Department in one of the following ways:

(1) If the wastewater system has been approved as a provisional wastewater system pursuant to subsection (f) of this section, the manufacturer may apply to have the system approved as an innovative wastewater system based on successful completion of the evaluation protocols established pursuant to subsection (d) of this section.~~wastewater system as provided in subsection (e) of this section or that has been evaluated as a controlled demonstration wastewater system as provided in subsection (f) of this section may apply to the Department to have the system approved as an innovative wastewater system as provided in this subsection.~~

(2) ~~A manufacturer of a~~If the wastewater system ~~for on-site subsurface use that~~ has not been evaluated or approved as ~~an experimental~~a provisional wastewater system ~~or as a controlled demonstration wastewater system~~ pursuant to subsection (f) of this section, the manufacturer may ~~also~~ apply to the Department to have the system approved as an innovative wastewater system on the basis of comparable research and testing conducted in other states. The manufacturer shall provide the Department with the data and findings of all evaluations of the performance of the system that have been conducted in any state by or on behalf of the manufacturer. The manufacturer shall also provide the Department with a summary of the data and findings of all other evaluations of the performance of the system that are known to the manufacturer.

(3) If the wastewater system has not been evaluated or approved as a provisional system pursuant to subsection (f) of this section, but has been evaluated under protocol established by a nationally recognized certification body for at least two consecutive years, has been found to perform acceptably based on the criteria of the protocol, and is designed and will be installed in a manner consistent with the system evaluated and approved by the nationally recognized certification body, the manufacturer may apply to have the system approved as an innovative wastewater system.

Within 30 days of receipt of the initial application, the Department shall either (i) notify the manufacturer of any items necessary to complete the application or (ii) notify the manufacturer that its application is complete. The Department shall publish a notice that the manufacturer has submitted an application under this subsection in the North Carolina Register and may provide additional notice to the public via the Internet or by other means. The Department shall receive public comment on the application for at least 30 days after the date the notice is published in the North Carolina Register. In making a determination under this subsection, the Department shall consider the data, findings, and recommendations submitted by the manufacturer and all public comment. The Department may also consider any other information that the Department determines to be relevant. The Department shall determine: (i) whether the system performs in a manner equal or superior to a conventional wastewater ~~system;~~system, in terms of structural integrity, treatment, and hydraulic performance; (ii) whether the system is constructed of

materials whose physical and chemical properties provide the strength, durability, and chemical resistance to allow the system to withstand loads and conditions as required by rules adopted by the Commission; (iii) the circumstances in which use of the system is appropriate; and (iv) any conditions and limitations related to the use of the system. The Department shall make the determinations required by this subsection and approve or deny the application within ~~180~~ 90 days after the Department receives a complete application from a manufacturer. If the Department fails to act on the application within ~~180 days,~~90 days of the notice of receipt of the complete application, the manufacturer may treat the application as denied and challenge the denial by filing a contested case as provided in Article 3 of Chapter 150B of the General Statutes. If the Department approves an innovative wastewater system, the Department shall notify the manufacturer of the approval and specify the circumstances in which use of the system is appropriate and any conditions and limitations related to the use of the system.

(g1) Approval of Functionally Equivalent Trench Systems as Innovative Systems. – A manufacturer of a wastewater trench system may petition the Commission to have the wastewater trench system approved as an innovative wastewater system as provided in this subsection.

(1) The Commission shall approve a wastewater trench system as an innovative wastewater system if it finds that there is clear, convincing, and cogent evidence that the wastewater trench system is functionally equivalent to a wastewater trench system that is approved as an accepted wastewater system. A wastewater trench system shall be considered functionally equivalent to an accepted wastewater trench system if the performance characteristics of the wastewater trench system satisfy all of the following requirements:

a. The physical properties and chemical durability of the materials from which the wastewater trench system is constructed are equal to or superior to the physical properties and chemical durability of the materials from which the accepted wastewater trench system is constructed.

b. The permeable sidewall area and bottom infiltrative area of the wastewater trench system are equal to or greater than the permeable sidewall area and bottom infiltrative area of the accepted wastewater trench system at a field-installed size.

c. The wastewater trench system utilizes a similar method and manner of function for the conveyance and application of effluent as the accepted wastewater trench system.

d. The structural integrity of the wastewater trench system is equal to or superior to the structural integrity of the accepted wastewater trench system.

e. The wastewater trench system shall provide a field installed system storage volume equal to or greater than the field installed system storage volume of the accepted wastewater trench system.

(2) As part of its petition, the manufacturer shall provide to the Commission all of the following information:

a. Specifications of the wastewater trench system.

b. Data necessary to demonstrate that the wastewater trench system is functionally equivalent to a wastewater trench system that is approved as an accepted wastewater system.

c. A certified statement from an independent, third-party professional engineer or testing laboratory that, based on verified documentation,

the wastewater trench system is functionally equivalent to an accepted wastewater system.

(3) Approval of a wastewater trench system as an innovative wastewater system shall not be conditioned on the manufacturer of the wastewater trench system having operational systems installed in the State.

(4) The Commission shall authorize the use of a wastewater trench system as an innovative wastewater system in the same applications as the accepted wastewater trench system.

(5) The Commission shall not include conditions and limitations in the approval of a wastewater trench system as an innovative wastewater system that are not included in the approval of the accepted wastewater trench system.

(h) Accepted Wastewater Dispersal Systems. – A manufacturer of an innovative wastewater dispersal system that has been in general use in this State for ~~more than~~a minimum of five years may petition the Commission to have the system designated as an accepted wastewater system as provided in this subsection. The manufacturer shall provide the Commission with the data and findings of all prior evaluations of the performance of the ~~system.~~system in this State and other states referenced in the petition, including disclosure of any conditions found to result in unacceptable structural integrity, treatment, or hydraulic performance. In addition, the manufacturer shall provide the Commission with information sufficient to enable the Commission to fully evaluate the performance of the system in this State for at least the five-year period immediately preceding the petition. The Commission shall designate a wastewater system as an accepted wastewater system only if it finds that there is clear, convincing, and cogent evidence (i) to confirm the findings made by the Department at the time the Department approved the system as an innovative wastewater system and (ii) that the system performs in a manner that is equal or superior to a conventional wastewater system under actual field conditions in this State. The Commission shall specify the circumstances in which use of the system is appropriate and any conditions and limitations related to the use of the system.

(i) ~~Miscellaneous Provisions.~~ –Nonproprietary Wastewater Systems. –

~~(1) In evaluating applications for approval under this section, the Department may consult with persons who have special training and experience related to on-site subsurface wastewater systems and may form a technical advisory committee for this purpose. However, the Department is responsible for making timely and appropriate determinations under this section.~~

~~(2)~~ The Department may initiate a review of a nonproprietary wastewater system and approve the system for ~~on-site subsurface~~ use ~~as an experimental wastewater system, a controlled demonstration wastewater system,~~ as a provisional wastewater system or an innovative wastewater system without having received an application from a manufacturer. The Department may recommend that the Commission designate a nonproprietary wastewater system as an accepted wastewater system without having received a petition from a manufacturer.

~~(j) Warranty Required in Certain Circumstances. The Department shall not approve a reduction of the total nitrification trench length for an innovative wastewater system or accepted wastewater system handling untreated septic tank effluent of more than twenty-five percent (25%) as compared to the total nitrification trench length required for a 36-inch-wide conventional wastewater system unless the manufacturer of the innovative wastewater system or accepted wastewater system provides a performance warranty for the nitrification trench system to each owner or purchaser of the system for a warranty period of at least five years from the date on which the wastewater system is placed in operation. The warranty shall provide that the manufacturer shall provide all material and labor that may be necessary to~~

~~provide a fully functional wastewater system. The Commission shall establish minimum terms and conditions for the warranty required by this subsection. This subsection shall not be construed to require that a manufacturer warrant a wastewater system that is not properly sized to meet the design load required for a particular use, that is improperly installed, or that is improperly operated and maintained.~~

(j1) Clarification With Respect to Certain Dispersal Media. – In considering the application by a manufacturer of a wastewater system utilizing expanded polystyrene synthetic aggregate particles as a septic effluent dispersal medium for approval of the system under this section, neither the Commission nor the Department may condition, delay, or deny the approval based on the particle or bulk density of the expanded polystyrene material. With respect to approvals already issued by the Department or Commission that include conditions or requirements related to the particle or bulk density of expanded polystyrene material, the Commission or Department, as applicable, shall promptly reissue all such approvals with the conditions and requirements relating to the density of expanded polystyrene material permanently deleted while leaving all other terms and conditions of the approval intact.

(k) Fees. – The Department shall collect the following fees under this section:

(1)	Review of an alternative protocol under subsection (d) of this section	$1,000.00
~~(2)~~	~~Review of an experimental system~~	~~$3,000.00~~
(3)	Review of a ~~controlled demonstration~~provisional system	$3,000.00
(4)	Review of an innovative system	$3,000.00
(5)	Review of an accepted system	$3,000.00
(6)	Review of a residential wastewater treatment system pursuant to G.S. 130A-342	$1,500.00
(7)	Review of a component ~~or device required~~ of a system	$ 100.00
(8)	Modification to approved accepted, provisional, or innovative system	$1,000.00

(l) On-Site Wastewater System Account. – The On-Site Wastewater System Account is established as a nonreverting account within the Department. Fees collected pursuant to this section shall be placed in the On-Site Wastewater System Account and shall be applied only to the costs of implementing this section."

SECTION 4.15.(b) The Commission for Public Health shall review and amend its rules to implement Section 4.15(a) of this act.

SECTION 4.15.(c) Beginning October 1, 2015, and every quarter thereafter until all rules required pursuant to Sections 4.14 and 4.15 of this act are adopted or amended, the Commission for Public Health shall submit written reports as to its progress on adopting or amending rules as required by Sections 4.14 and 4.15 of this act to the Environmental Review Commission and the Joint Legislative Oversight Committee on Health and Human Services. The Commission shall supplement the written reports required by this subsection with additional written and oral reports as may be requested by the Environmental Review Commission and the Joint Legislative Oversight Committee on Health and Human Services. The Commission shall submit the written reports required by this subsection whether or not the General Assembly is in session at the time the report is due.

SECTION 4.15.(d) The Commission for Public Health, in consultation with the Department of Health and Human Services, local health departments, and stakeholders representing the wastewater system industry, shall study the costs and benefits of requiring treatment standards greater than those listed by nationally recognized standards, including the recorded advantage of such higher treatment standards for the protection of the public health and the environment. The Commission shall report its findings and recommendations, including any legislative proposals, to the Environmental Review Commission and the Joint Legislative Oversight Committee on Health and Human Services on or before January 1, 2016.

CONTESTED CASES FOR AIR PERMITS

SECTION 4.17. G.S. 143-215.108 reads as rewritten:

"**§ 143-215.108. Control of sources of air pollution; permits required.**

...

(e) A permit ~~applicant, permittee, or third party~~applicant or permittee who is dissatisfied with a decision of the Commission on a permit application may commence a contested case by filing a petition under G.S. 150B-23 within 30 days after the Commission notifies the applicant or permittee of its decision. If the permit ~~applicant, permittee, or third party~~applicant or permittee does not file a petition within the required time, the Commission's decision on the application is final and is not subject to review. The filing of a petition under this subsection will stay the Commission's decision until resolution of the contested case.

(e1) A person other than a permit applicant or permittee who is a person aggrieved by the Commission's decision on a permit application may commence a contested case by filing a petition under G.S. 150B-23 within 30 days after the Commission provides notice of its decision on a permit application, as provided in G.S. 150B-23(f), or by posting the decision on a publicly available Web site. The filing of a petition under this subsection does not stay the Commission's decision except as ordered by the administrative law judge under G.S. 150B-33(b).

...."

AMEND ISOLATED WETLANDS LAW

SECTION 4.18.(a) For the purposes of implementing Section .1300 of Subchapter 2H of Chapter 2 of Title 15A of the North Carolina Administrative Code (Discharges to Isolated Wetlands and Isolated Waters), the isolated wetlands provisions of Section .1300 shall apply only to Basin Wetlands and Bogs that are not jurisdictional wetlands under the federal Clean Water Act. The isolated wetlands provisions of Section .1300 shall not apply to an isolated man-made ditch or pond constructed for stormwater management purposes or any other man-made isolated pond.

SECTION 4.18.(b) The Environmental Management Commission may adopt rules to amend Section .1300 of Subchapter 2H of Chapter 2 of Title 15A of the North Carolina Administrative Code consistent with subsection (a) of this section.

SECTION 4.18.(c) Section 54 of S.L. 2014-120 reads as rewritten:

"**SECTION 54.(a)** Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to Section 54(c) of this act, the Commission and the Department of Environment and Natural Resources shall implement 15A NCAC 02H .1305 (Review of Applications) as provided in Section 54(b) of this act.

"**SECTION 54.(b)** Notwithstanding 15A NCAC 02H .1305 (Review of Applications), all of the following shall apply to the implementation of 15A NCAC 02H .1305:

(1) The amount of impacts of isolated wetlands under 15A NCAC 02H .1305(d)(2) shall be less than or equal to one acre of isolated wetlands ~~east of I-95 for the entire project and less than or equal to 1/3 acre of isolated wetlands west of I-95~~ for the entire project.

(2) Mitigation requirements for impacts to isolated wetlands shall only apply to the amount of impact that exceeds the threshold set out in subdivision (1) of this section. The mitigation ratio for impacts ~~of greater than one acre~~ exceeding the threshold for the entire project under 15A NCAC 02H .1305(g)(6) shall be 1:1 and may be located on the same parcel.

~~(3) For purposes of Section 54(b) of this section, "isolated wetlands" means a Basin Wetland or Bog as described in the North Carolina Wetland~~

~~Assessment User Manual prepared by the North Carolina Wetland Functional Assessment Team, version 4.1 October, 2010, that are not jurisdictional wetlands under the federal Clean Water Act. An "isolated wetland" does not include an isolated man-made ditch or pond constructed for stormwater management purposes or any other man-made isolated pond.~~

(4) Impacts to isolated wetlands shall not be combined with the project impacts to 404 jurisdictional wetlands or streams for the purpose of determining when impact thresholds that trigger a mitigation requirement are met.

"**SECTION 54.(c)** The Environmental Management Commission shall adopt rules to amend 15A NCAC 02H .1300 through 15A NCAC 02H .1305 consistent with Section 54(b) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this subsection shall be substantively identical to the provisions of Section 54(b) of this act. Rules adopted pursuant to this subsection are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this subsection shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

"**SECTION 54.(d)** The Department of Environment and Natural Resources shall study (i) how the term "isolated wetland" has been previously defined in State law and whether the term should be clarified in order to provide greater certainty in identifying isolated wetlands; (ii) the surface area thresholds for the regulation of mountain bog isolated wetlands, including whether mountain bog isolated wetlands should have surface area regulatory thresholds different from other types of isolated wetlands; and (iii) whether impacts to isolated wetlands should be combined with the project impacts to jurisdictional wetlands or streams for the purpose of determining when impact thresholds that trigger a mitigation requirement are met. The Department shall report its findings and recommendations to the Environmental Review Commission on or before November 1, 2014.

"**SECTION 54.(e)** This section is effective when it becomes law. Section 54(b) of this act expires on the date that rules adopted pursuant to Section 54(c) of this act become effective."

AMEND COASTAL STORMWATER REQUIREMENTS

SECTION 4.19.(a) Section 2(b) of S.L. 2008-211 reads as rewritten:

"**SECTION 2.(b)** Requirements for Certain Nonresidential and Residential Development in the Coastal Counties. – All nonresidential development activities that occur within the Coastal Counties ~~that will add more than 10,000 square feet of built upon area or~~ that require a Sedimentation and Erosion Control Plan, pursuant to G.S. 113A-57 or a Coastal Area Management Act (CAMA) Major Development Permit, pursuant to G.S. 113A-118 and all residential development activities within the Coastal Counties that require a Sedimentation and Erosion Control Plan, pursuant to G.S. 113A-57 or a Coastal Area Management Act (CAMA) Major Development Permit, pursuant to G.S. 113A-118 shall manage stormwater runoff as provided in this subsection. A development activity or project requires a Sedimentation and Erosion Control Plan if the activity or project disturbs one acre or more of land, including an activity or project that disturbs less than one acre of land that is part of a larger common plan of development. Whether an activity or project that disturbs less than one acre of land is part of a larger common plan of development shall be determined in a manner consistent with the memorandum referenced as "Guidance Interpreting Phase 2 Stormwater Requirements" from the Director of the Division of Water Quality of the Department of Environment and Natural Resources to Interested Parties dated 24 July 2006.

(1) Development Near Outstanding Resource Waters (ORW). – Development activities within the Coastal Counties and located within 575 feet of the mean high waterline of areas designated by the Commission as Outstanding Resource Waters (ORW) ~~shall meet the requirements of 15A NCAC 02H~~

~~.1007 (Stormwater Requirements: Outstanding Resource Waters) and~~ shall be permitted as follows:

a. Low-Density Option. – Development shall be permitted pursuant to 15A NCAC 02H .1003(d)(1) if the development meets all of the following requirements:

1. The development has a built upon area of ~~twelve percent (12%)~~twenty-four percent (24%) or less. A development project with an overall density at or below the low-density threshold, but containing areas with a density greater than the overall project density, shall be considered low-density as long as the project meets or exceeds the requirements for low-density development and locates the higher density development in upland areas and away from surface waters and drainageways to the maximum extent practicable.
2. Stormwater runoff from the development is transported primarily by vegetated conveyances. As used in this sub-sub-subdivision, "conveyance system" shall not include a stormwater collection system. Stormwater runoff from built upon areas that is directed to flow through any wetlands shall flow into and through these wetlands at a non-erosive velocity.
3. The development contains a 50-foot-wide vegetative buffer for new development activities and a 30-foot-wide vegetative buffer for redevelopment activities. The width of a buffer is measured horizontally from the normal pool elevation of impounded structures, from the bank of each side of streams or rivers, and from the mean high waterline of tidal waters, perpendicular to the shoreline. The vegetative buffer may be cleared or graded, but must be planted with and maintained in grass or any other vegetative or plant material. The Division of Water Quality may, on a case-by-case basis, grant a minor variance from the vegetative buffer requirements of this section pursuant to the procedures set out in 15A NCAC 02B .0233(9)(b). Vegetative buffers and filters required by this section and any other buffers or filters required by State water quality or coastal management rules or local government requirements may be met concurrently and may contain, in whole or in part, coastal, isolated, or 404 jurisdictional wetlands that are located landward of the normal waterline.

b. High-Density Option. – Development shall be permitted pursuant to 15A NCAC 02H .1003(d)(2) if the development meets all of the following requirements:

1. The development has a built upon area of greater than ~~twelve percent (12%).~~twenty-four percent (24%).
2. The development has no direct outlet channels or pipes to Class SA waters unless permitted in accordance with 15A NCAC 02H .0126. Stormwater runoff from built upon areas that is directed to flow through any wetlands shall flow into and through these wetlands at a non-erosive velocity.
3. The development utilizes control systems that are any combination of infiltration systems, bioretention systems,

constructed stormwater wetlands, sand filters, rain barrels, cisterns, rain gardens or alternative low impact development stormwater management systems designed in accordance with 15A NCAC 02H .1008 to control and treat the runoff from all surfaces generated by one and one-half inches of rainfall, or the difference in the stormwater runoff from all surfaces from the predevelopment and postdevelopment conditions for a one-year, 24-hour storm, whichever is greater. Wet detention ponds may be used as a stormwater control system to meet the requirements of this sub-sub-subdivision, provided that the stormwater control system fully complies with the requirements of this sub-subdivision. If a wet detention pond is used within one-half mile of Class SA waters, installation of a stormwater best management practice in series with the wet detention pond shall be required to treat the discharge from the wet detention pond. Secondary stormwater best management practices that are used in series with another stormwater best management practice do not require any minimum separation from the seasonal high water table. Alternatives as described in 15A NCAC 02H .1008(h) may also be approved if they meet the requirements of this sub-subdivision.

4. Stormwater runoff from the development that is in excess of the design volume must flow overland through a vegetative filter designed in accordance with 15A NCAC 02H .1008 with a minimum length of 50 feet measured from mean high water of Class SA waters.

5. The development contains a 50-foot-wide vegetative buffer for new development activities and a 30-foot-wide vegetative buffer for redevelopment activities. The width of a buffer is measured horizontally from the normal pool elevation of impounded structures, from the bank of each side of streams or rivers, and from the mean high waterline of tidal waters, perpendicular to the shoreline. The vegetative buffer may be cleared or graded, but must be planted with, and maintained in, grass or any other vegetative or plant material. Furthermore, stormwater control best management practices (BMPs), or stormwater control structures, with the exception of wet detention ponds, may be located within this vegetative buffer. The Division of Water Quality may, on a case by case basis, grant a minor variance from the vegetative buffer requirements of this section pursuant to the procedures set out in 15A NCAC 02B .0233(9)(b). Vegetative buffers and filters required by this section and any other buffers or filters required by State water quality or coastal management rules or local government requirements may be met concurrently and may contain, in whole or in part, coastal, isolated, or 404 jurisdictional wetlands that are located landward of the normal waterline.

...."

SECTION 4.19.(b) Section 2(c) of S.L. 2008-211 reads as rewritten:

"**SECTION 2.(c)** Requirements for Limited Residential Development in Coastal Counties. – For residential development activities within the 20 Coastal Counties that are located within one-half mile and draining to Class SA waters, that have a built upon area greater than ~~twelve percent (12%),~~twenty-four percent (24%), that do not require a stormwater management permit under subsection (b) of this section, and that will add more than 10,000 square feet of built upon area, a one-time, nonrenewable stormwater management permit shall be obtained. The permit shall require recorded deed restrictions or protective covenants to ensure that the plans and specifications approved in the permit are maintained. Under this permit, stormwater runoff shall be managed using any one or combination of the following practices:

(1) Install rain cisterns or rain barrels designed to collect all rooftop runoff from the first one and one-half inches of rain. Rain barrels and cisterns shall be installed in such a manner as to facilitate the reuse of the collected rain water on site and shall be installed in such a manner that any overflow from these devices is directed to a vegetated area in a diffuse flow. Construct all uncovered driveways, uncovered parking areas, uncovered walkways, and uncovered patios out of permeable pavement or other pervious materials.

(2) Direct rooftop runoff from the first one and one-half inches of rain to an appropriately sized and designed rain garden. Construct all uncovered driveways, uncovered parking areas, uncovered walkways, and uncovered patios out of permeable pavement or other pervious materials.

(3) Install any other stormwater best management practice that meets the requirements of 15A NCAC 02H .1008 to control and treat the stormwater runoff from all built upon areas of the site from the first one and one-half inches of rain."

SECTION 4.19.(c) As necessary to comply with federal stormwater management requirements, the rescission of designations of local governments within the 20 Coastal Counties as Phase 2 municipalities pursuant to Section 3 of S.L. 2008-211 is repealed.

SECTION 4.19.(d) The Department of Environment and Natural Resources shall evaluate the water quality of surface waters in the Coastal Counties and the impact of stormwater on this water quality. The Department shall specifically consider the appropriate levels of built-upon area and stormwater management requirements necessary to protect the water quality of surface waters in the Coastal Counties. No later than April 1, 2016, the Department shall report the results of its study, including recommendations, to the Environmental Review Commission.

SECTION 4.19.(e) Section 4.19(d) of this act is effective when the act becomes law. The remainder of this section becomes effective July 1, 2016.

STUDY EXEMPTING LINEAR UTILITY PROJECTS FROM CERTAIN ENVIRONMENTAL REGULATIONS

SECTION 4.21. The Department of Environment and Natural Resources shall study whether and to what extent activities related to the construction, maintenance, and removal of linear utility projects should be exempt from certain environmental regulations. For purposes of this section, "linear utility project" means an electric power line, water line, sewage line, stormwater drainage line, telephone line, cable television line, data transmission line, communications-related line, or natural gas pipeline. For purposes of this section, "environmental regulation" means a regulation established or implemented by any of the following:

(1) The Department of Environment and Natural Resources created pursuant to G.S. 143B-279.1.

(2) The Environmental Management Commission created pursuant to G.S. 143B-282.

(3) The Coastal Resources Commission established pursuant to G.S. 113A-104.
(4) The Marine Fisheries Commission created pursuant to G.S. 143B-289.51.
(5) The Wildlife Resources Commission created pursuant to G.S. 143-240.
(6) The Commission for Public Health created pursuant to G.S. 130A-29.
(7) The Sedimentation Control Commission created pursuant to G.S. 143B-298.
(8) The North Carolina Mining and Energy Commission created pursuant to G.S. 143B-293.1.
(9) The North Carolina Oil and Gas Commission created pursuant to G.S. 143B-293.1.

No later than March 1, 2016, the Department shall report the results of this study, including any recommendations, to the Environmental Review Commission.

REPEAL DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES IDLING RULES

SECTION 4.24. The Secretary of Environment and Natural Resources shall repeal 15A NCAC 02D .1010 (Heavy-Duty Vehicle Idling Restrictions) on or before December 1, 2015. Until the effective date of the repeal of the rule required pursuant to this section, the Secretary, the Department of Environment and Natural Resources, the Environmental Management Commission, or any other political subdivision of the State shall not implement or enforce 15A NCAC 02D .1010 (Heavy-Duty Vehicle Idling Restrictions).

AMBIENT AIR MONITORING

SECTION 4.25.(a) The Department of Environment and Natural Resources shall review its ambient air monitoring network and, in the next annual monitoring network plan submitted to the United States Environmental Protection Agency, shall request the removal of any ambient air monitors not required by applicable federal laws and regulations.

SECTION 4.25.(b) No later than September 1, 2016, the Department of Environment and Natural Resources shall discontinue all ambient air monitors not required by applicable federal laws and regulations if approval from the United States Environmental Protection Agency is not required for the discontinuance.

SECTION 4.25.(c) Nothing in this section is intended to prevent the Department from installing temporary ambient air monitors as part of an investigation of a suspected violation of air quality rules, standards, or limitations or in response to an emergency situation causing an imminent danger to human health and safety.

SECTION 4.25.(d) The Division of Air Quality, Department of Environment and Natural Resources, shall report to the Environmental Review Commission no later than November 1, 2016, on the status of the ambient air monitoring network and the Division's implementation of the requirements of this section.

DIVISION OF AIR QUALITY NOTICE REQUIREMENTS

SECTION 4.27. G.S. 143-215.110 reads as rewritten:

"**§ 143-215.110. Special orders.**

(a) Issuance. – The Commission is hereby empowered, after the effective date of standards and classifications adopted pursuant to G.S. 143-215.107, to issue (and from time to time to modify or revoke) a special order or other appropriate instrument, to any person whom it finds responsible for causing or contributing to any pollution of the air within the area for which standards have been established. Such an order or instrument may direct such person to take or refrain from taking such action, or to achieve such results, within a period of time specified by such special order, as the Commission deems necessary and feasible in order to alleviate or eliminate such pollution. The Commission is authorized to enter into consent special orders, assurances of voluntary compliance or other similar documents by agreement

with the person responsible for pollution of the air, subject to the provisions of subsection (a1) of this section regarding proposed orders, and such consent order, when entered into by the Commission after public review, shall have the same force and effect as a special order of the Commission issued pursuant to hearing.

(a1) Public Notice and Review of Consent Orders.

(1) The Commission shall give notice of a proposed consent order to the proper State, interstate, and federal agencies, to interested persons, and to the public. The Commission may also provide any other data it considers appropriate to those notified. The Commission shall prescribe the form and content of the notice. The notice shall be given at least ~~45~~ 30 days prior to any final action regarding the consent order. Public notice shall be given by publication of the notice ~~one time in a newspaper having general circulation within the county in which the pollution originates.~~for 30 days on the regulatory agency Web site.

(2) Any person who desires a public meeting on any proposed consent order may request one in writing to the Commission within 30 days following date of the notice of the proposed consent order. The Commission shall consider all such requests for meetings. If the Commission determines that there is significant public interest in holding a meeting, the Commission shall schedule a meeting and shall give notice of such meeting at least 30 days in advance to all persons to whom notice of the proposed consent order was given and to any other person requesting notice. At least 30 days prior to the date of meeting, the Commission shall also have a copy of the notice of the meeting published ~~at least one time in a newspaper having general circulation within the county in which the pollution originates.~~for 30 days on the regulatory agency Web site. The Commission shall prescribe the form and content of notices under this subsection.

...."

DISCLOSURE OF PERSONAL IDENTIFYING INFORMATION

SECTION 4.29.(a) G.S. 143-254.5 reads as rewritten:

"**§ 143-254.5. Disclosure of personal identifying information.**

Social security numbers and identifying information obtained by the Commission shall be treated as provided in G.S. 132-1.10. For purposes of this section, "identifying information" also includes a person's mailing address, residence address, e-mail address, date of birth, and telephone number."

SECTION 4.29.(b) G.S. 143B-289.52(h) reads as rewritten:

"(h) Social security numbers and identifying information obtained by the Commission or the Division of Marine Fisheries shall be treated as provided in G.S. 132-1.10. For purposes of this subsection, "identifying information" also includes a person's mailing address, residence address, e-mail address, date of birth, and telephone number."

PROVIDE REGULATORY RELIEF BY INCREASING THRESHOLDS FOR MITIGATION OF LINEAR STREAM IMPACTS

SECTION 4.30.(a) The Environmental Management Commission shall amend its rules for water quality certifications (15A NCAC 2H .0501 through 2H .0507) to provide for all of the following:

(1) With respect to mitigation required for activities that result in the loss of a perennial stream or an ephemeral/intermittent stream, the requirement of mitigation by the U.S. Army Corps of Engineers for less than 300 linear feet of streambed shall not be considered to be the mitigation required by the

water quality certification, unless the Commission makes a specific finding based upon ecological, hydrological, or other scientific data that total, critical, and irreversible damage to existing uses of the stream will occur if no mitigation is required.

(2) In cases where more than 300 linear feet of streambed are lost, the Commission shall require mitigation at a one-to-one ratio only for the number of feet of streambed lost above 300 linear feet.

SECTION 4.30.(b) The Environmental Management Commission shall adopt temporary rules to implement this section no later than September 30, 2015. The Commission shall also adopt permanent rules to implement this section.

PROHIBIT THE REQUIREMENT OF MITIGATION FOR IMPACTS TO INTERMITTENT STREAMS

SECTION 4.31.(a) Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-214.7C. Prohibit the requirement of mitigation for impacts to intermittent streams.**

Except as required by federal law and notwithstanding any other provision of State law, the Department of Environment and Natural Resources shall not require mitigation for impacts to an intermittent stream. For purposes of this section, "intermittent stream" means a well-defined channel that has all of the following characteristics:

(1) It contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table.

(2) The flow of water in the intermittent stream may be heavily supplemented by stormwater runoff.

(3) It often lacks the biological and hydrological characteristics commonly associated with the conveyance of water."

SECTION 4.31.(b) The Department of Environment and Natural Resources and the Environmental Management Commission shall amend their rules so that the rules are consistent with the provisions of G.S. 143-214.7C, as enacted by subsection (a) of this section.

PIGEON HUNTING

SECTION 4.32. G.S. 113-129(15a) reads as rewritten:

"(15a) Wild Birds. – Migratory game birds; upland game birds; and all undomesticated feathered vertebrates. ~~The~~Except as otherwise provided in this subdivision, the Wildlife Resources Commission may by regulation list specific birds or classes of birds excluded from the definition of wild birds based upon the need for protection or regulation in the interests of conservation of wildlife resources. Pigeons are wild birds."

WILDLIFE RESOURCES COMMISSION STUDIES

SECTION 4.33.(a) The Wildlife Resources Commission shall review the methods and criteria by which it adds, removes, or changes the status of animals on the State protected animal list as defined in G.S. 113-331 and compare these to federal regulations and the methods and criteria of other states in the region. The Commission shall also review the policies by which the State addresses introduced species and make recommendations for improving these policies, including impacts associated with hybridization that occurs among federally listed, State-listed, and nonlisted animals.

SECTION 4.33.(b) The Wildlife Resources Commission shall report its findings and recommendations to the Environmental Review Commission by March 1, 2016.

SECTION 4.34.(a) The Wildlife Resources Commission shall establish a coyote management plan to address the impacts of coyotes in this State and the threats that coyotes pose to citizens, industries, and populations of native wildlife species within the State.

SECTION 4.34.(b) The Wildlife Resources Commission shall report its findings and recommendations, including any proposed legislation to address overpopulation of coyotes, to the Environmental Review Commission by March 1, 2016.

SECTION 4.35.(a) The Wildlife Resources Commission shall establish a pilot coyote management assistance program in Mitchell County. In implementing the program, the Commission shall document and assess private property damage associated with coyotes; evaluate effectiveness of different coyote control methodologies, including lethal removal; and evaluate potential for a scalable statewide coyote assistance program.

SECTION 4.35.(b) The Wildlife Resources Commission shall submit an interim report on the progress of the pilot program to the Environmental Review Commission by March 1, 2016. The Wildlife Resources Commission shall submit a final report on the results of the pilot program, including any proposed legislation, to the Environmental Review Commission by January 1, 2017.

ANIMAL WELFARE HOTLINE AND COURT FEE TO SUPPORT THE INVESTIGATION OF ANIMAL CRUELTY VIOLATIONS

SECTION 4.36.(a) Article 1 of Chapter 114 of the General Statutes is amended by adding a new section to read:

"**§ 114-8.7. Reports of animal cruelty and animal welfare violations.**

(a) The Attorney General shall establish a hotline, to be known as the "NC Pets We Care Hotline," to receive reports of allegations of animal cruelty or violations of the Animal Welfare Act, Article 3 of Chapter 19A of the General Statutes, against animals under private ownership, by means including telephone, electronic mail, and Internet Web site. The Attorney General shall periodically publicize the hotline telephone number, electronic mail address, Internet Web site address, and any other means by which the Attorney General may receive reports of allegations of animal cruelty or violations of the Animal Welfare Act. Any individual who makes a report under this section shall disclose his or her name and telephone number and any other information the Attorney General may require.

(b) When the Attorney General receives allegations involving activity that the Attorney General determines may involve cruelty to animals under private ownership in violation of Article 47 of Chapter 14 of the General Statutes, the allegations shall be referred to the appropriate local animal control authority for the unit or units of local government within which the violations are alleged to have occurred. When the Attorney General receives allegations involving activity that the Attorney General determines may involve violations of the Animal Welfare Act, the allegations shall be referred to the Department of Agriculture and Consumer Services. The Attorney General shall record the total number of reports received on the hotline and the number of reports received against any individual on the hotline."

SECTION 4.36.(b) G.S. 7A-304(a) is amended by adding a new subdivision to read:

"**§ 7A-304. Costs in criminal actions.**

(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected. No costs may be assessed when a case is dismissed. Only upon entry of a written order, supported by findings of fact and conclusions of law, determining that there is just cause, the court may (i) waive costs assessed under this section or (ii) waive or reduce costs assessed under subdivision (7), (8), (8a), (11), (12), or (13) of this section.

...

(14) For support of law enforcement in the investigation of violations of Article 47 of Chapter 14 of the General Statutes and Animal Welfare Act violations, the district or superior court judge shall, upon conviction of a defendant charged with violating Article 47 of Chapter 14 of the General Statutes or the Animal Welfare Act, order payment of the sum of two hundred fifty dollars ($250.00) to be remitted to the general fund of the local governmental unit that investigated the crime to be used for local animal control authorities."

SECTION 4.36.(c) Section 4.36(b) of this act becomes effective January 1, 2016, and applies to fees assessed or collected on or after that date. The remainder of this section is effective when this act becomes law.

AMEND STORMWATER MANAGEMENT LAW

SECTION 4.37.(a) Section 3 of S.L. 2013-82 reads as rewritten:

"**SECTION 3.** The Environmental Management Commission shall adopt rules implementing Section 2 of this act no later than ~~July 1, 2016.~~November 1, 2016."

SECTION 4.37.(d) The Environmental Review Commission, with the assistance of the Department of Environment and Natural Resources, shall review the current status of State statutes, session laws, rules, and guidance documents related to the management of stormwater in the State. The Commission shall specifically examine whether State statutes, session laws, rules, and guidance documents related to the management of stormwater in the State should be recodified or reorganized in order to clarify State law for the management of stormwater. The Commission shall submit legislative recommendations, if any, to the 2016 Regular Session of the 2015 General Assembly.

STUDY FLOOD ELEVATIONS AND BUILDING HEIGHT REQUIREMENTS

SECTION 4.38. The Department of Insurance, the Department of Public Safety, and the Building Code Council shall jointly study how flood elevations and building heights for structures are established and measured in the coastal region of the State. The Departments and the Council shall specifically consider how flood elevations and coastal building height requirements affect flood insurance rates and how height calculation methods might be made more consistent and uniform in order to provide flood insurance rate relief. In conducting this study, the Departments and the Council shall engage a broad group of stakeholders, including property owners, local governments, representatives of the surveying industry, and representatives of the development industry. No later than January 1, 2016, the Departments and the Council shall jointly submit the results of their study, including any legislative recommendations, to the 2015 General Assembly.

PART V. SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 5.1. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part declared to be unconstitutional or invalid.

SECTION 5.2. Except as otherwise provided, this act is effective when it becomes law.

July 20, 2015

VIA ELECTRONIC MAIL

Representative Pat McElraft
North Carolina House of Representatives
300 N. Salisbury Street, Room 634
Raleigh, North Carolina 27603-5925

Representative Rick Catlin
North Carolina House of Representatives
300 N. Salisbury Street, Room 638
Raleigh, North Carolina 27603-5925

Re: H765 – Opposition to Change to Definition of "Prospective Developer" under North Carolina Brownfields Statute

Dear Representatives McElraft and Catlin:

We are writing to express our opposition to section 4.9(a) of H765 which proposes to change the definition of "Prospective Developer" under the Brownfields Property Reuse Act (N.C.G.S. §130A-310.31.)

The undersigned are North Carolina environmental lawyers with decades of experience. Collectively we have negotiated the vast majority of Brownfields Agreements since the statute was enacted in 1996. Some of us were also involved in the drafting of the original statute and its amendments.

The Brownfields statute has been one of North Carolina's most successful environmental statutes, both in terms of protecting the environment and public health and promoting development of abandoned and blighted properties. To date, over 325 properties have been redeveloped under Brownfields Agreements with a resulting economic impact of more than $9.5 billion. Nearly 150 more projects are pending. Brownfields Agreements have become a standard in the marketplace for resolving environmental issues readily accepted by buyers, sellers, lenders and tenants.

Under the current statute, determination of eligibility for a Brownfields Agreement is simple and straightforward. If a person looking to develop or redevelop a contaminated site can show that it "did not cause or contribute to the contamination", then the person is a "Prospective Developer" eligible to seek a Brownfields Agreement.

Section 4.9(a) of H765 would eliminate this simplicity and clarity and severely limit who could seek a Brownfields Agreement. Section 4.9(a) proposes to replace the current definition with the terms "bona fide prospective purchaser", "innocent landowner" and "contiguous property owners" as defined in the federal Superfund law. However, the definitions of these terms are long, complex and confusing and have generated a lot of litigation over how they

should be interpreted. Furthermore, reading the Superfund statute alone is not enough, as there are also regulations, guidance documents and court decisions that have to be reviewed in order to try to understand what these terms mean.

Amidst this complexity and confusion, the following things are clear – if Section 4.9(a) is enacted, fewer people will be eligible for Brownfields Agreements, it will take considerably more time and staff resources to determine if someone is eligible, and fewer Brownfields sites will be safely and productively redevelopment. That is an unacceptable result.

For all of these reasons, Section 4.9(a) of H765 should not be adopted.

We would ask that a copy of this letter be provided to all the members of the Committee on the Environment and that it be made part of the record of the public hearing to be held on July 21.

Respectfully submitted,

Benne C. Hutson
McGuireWoods LLP
Former Chairman, North Carolina
Environmental Management Commission
Charlotte, NC

Charles D. Case
Hunton & Williams LLP
Raleigh, NC

Steven J. Levitas
Kilpatrick Townsend & Stockton LLP
Raleigh, NC

Amos C. Dawson, III
Williams Mullen
Raleigh, NC

David A. Franchina
K&L Gates
Charlotte, NC

Sean M. Sullivan
Troutman Sanders LLP
Raleigh, NC

Thomas N. Griffin
Parker Poe LLP
Charlotte, NC

George W. House
Brooks, Pierce, McLendon, Humphrey &
Leonard, L.L.P.
Greensboro, NC

Mona Cunningham O'Bryant
Smith Moore Leatherwood LLP
Greensboro, NC

Stephen T. Parascandola
Smith, Anderson, Blount, Dorsett,
Mitchell & Jernigan, LLP
Raleigh, NC

Grady L. Shields
Wyrick Robbins Yates & Ponton LLP
Raleigh, NC

Amy P. Wang
Ward and Smith, P.A.
New Bern, NC

Brad A. De Vore
Womble Carlyle Sandridge & Rice, LLP
Charlotte, NC

William Clarke
Roberts & Stevens
Asheville, NC

NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES

ENVIRONMENT COMMITTEE REPORT
Representative Rick Catlin, Co-Chair
Representative Pat McElraft, Co-Chair

RECOMMEND HOUSE DOES NOT CONCUR

HB **765** **(SCS#2)** Regulatory Reform Act of 2015.

Draft Number:	None
Serial Referral:	None
Recommended Referral:	None
Long Title Amended:	No
Floor Manager:	McElraft

TOTAL REPORTED: 1

House Environment Public Hearing July 21, 2015

1. Name	Organization	Issue	
2. Cassie Gavin	Sierra Club	Self-audit - con	
3. Joe Suleyman	NHCO Landfill	Electronic Recycling Program-pro	
4. Allen Hardison	NC SWANA	Electronic Recycling-pro	
5. Nancy Deal	DHHS	Public Health	
6. David Kalbacker	NC Board of Nursing	Sec. 1.5 Page 4 of the bill referencing 93B-8.2 that Prohibits licensees .... Prohibits nursing board from hiring nurse consultants?	
7. Jeff Thompson	PE	Sec. 3.9 PVC pipe preference- con	
8. Jon Carr	NC Rural Water Association	Sec. 3.9- "	
9. Doug Lassiter	Septic Tank Assoc	On-site wastewater- pro	
10. Dr. Howard Neufield	App State, Southern App Env Research Ctr.	Air quality monitors- keep	
11. Jay Styron, President	NC Shellfish Growers Assoc	Stormwater Provisions	
12. Laura Wenzel, MSW Manager,	Advocates for Healthy Air	Air Quality Monitors, Other public health provisions	
13. Terry Landsell	Advocates for Healthy Air	Air Quality Monitors	
14. Mac Montgomery	Coastal Federation	TBD	

15. John Dorney	Former DENR Supervisor	Amend isolated wetlands law	
16. Benne Hutson Environmental Attorney	McGuire Woods	Definition of prospective developer under brownfields statute. Sect. 4.9	
17. Diane Davis	Carolina Recycling Association	Electronics recycling – pro program in place	
18. John Preyer	Restoration Systems	Section 4.3	
19. TBD Hugh Johnson	NC Association of County Commissioners	Concerns with the electronics recycling repeal in Section 4.2, the water infrastructure materials changes in Section 3.9 and some of the changes to septic system regulations in Section 4.14.	
20. Dr. Wes Wallace	Private Citizen	Section 4.24, Idling Rules of HB 765	
21. Andrew Blethen	Acting president of the North Carolina Supervisors Association	The "private option permit" as it pertains to onsite waste water treatment and disposal systems.	
22. Rudy Underwood	American Chemistry Council	In support of Section 3:9 of	
23. Charles Law	Silver Line Plastics	In support of Section 3.9	
24. John Fishbourne	Toughwater Fishburne Pipeline Management & Engineering PLLC	Section 3.9	
25. Gradie McCallie	NC Conservation Network	Expressing concerns about the risk remediation provision, §4.7 of H765.	
26. Former Supreme Court Justice Robert Orr	Private Citizen	To speak against Sec 1.4, the attorneys' fees provision	

27. Veronica Bryant	NC Public Health, Env Health Section	I would like to make comment during the hearing on sections 4.14 and 4.15. Thank you for your consideration.	
28. Mary Penny Kelley	Mary Penny Kelley Law Offices	Primarily addressed to attorney's fees.	
29. Jake Thurmond /Craig Foster	Orvis	Sect. 4.3 intermittent streams, economic impact	
30. Gary Pendleton (David Ferrell)	House member, friend and parent NC Motorsports Assoc/Polaris	ATV safety- rules on age If necessary- NC rules on ATV	
31.			

VISITOR REGISTRATION SHEET

House Comm. on Enviroment — 07/21/15

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Doug Lassiter	NCSTA
Allen Hardison	NC-SWANA
Diane Davis	Carolina Recycling Association
Paul Taglieri	Infax Inc
Preston Howard	NCMA
Tim Letter	FSP
Joe Suleyman	New Hanover County
Hayden Bauguess	FSP
Nancy Deal	OSWPDPH
Andrew Bluthen	NCCHSA
Jeff Thompson	Withers & Ravenel

VISITOR REGISTRATION SHEET

House Comm. on Enviroment — 07/21/15

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
MAC MONTGOMERY	NC Coastal Federation
Mike Giles	NC Coastal Federation 309 W Salisbury St Wrightsville Beach
Veronica Bryant	NC Public Health Association 222 N Pearson St. Suite 208 Raleigh NC 27603
Clayton Dellinger	NCDA&CS
Joy Archer	NCDA&CS
CHRIS DILLON	WAKE
Patrick Gibbons	CCS
Andy Chase	KMA
Natalie Hobson	NCHFA
Michael C. Orbon	Wake County
Mason Dufresne	Orange county

VISITOR REGISTRATION SHEET

House Comm. on Enviroment — 07/21/15

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Laura Lee	LCLC
Larry Michael	NC DHHS
Jan Cox	NCSWA
BENNE HUTSON	McGUIREWOODS, CHARLOTTE
Johanna Reese	NCAFC
Hugh Johnson	NCAFC
Amy Full	K&L Gates
Ruby Underwood	Am Chemistry Council
Charles Laws	Silver-Line Plastics
John Fishburne	Toughwater Fishburne Public Mgmt Eng, Charlotte
David Ferrell	VB

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House Comm. on Enviroment — Name of Committee

07/21/15 — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Sarah Collins	NCLM
Erin Wynia	NCLM
R. Scott Greene	Guilford Co. DHHS
Scott Cole	Guilford County DHHS - Env. Hlth
Peg O'Connell	NCPHA
Emily Massey	NCREC
Josh Stewart	NCREC
Fred Moreno	NCREC
Elizabeth Biser	Brooks Pierce
Doug Hawley	NCPCW
	NCAFC

VISITOR REGISTRATION SHEET

House Comm. on Environment — 09/21/15

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Will Culpepper	MVA
JGOODMAN	NC CHAMBER
R Kaylan	Kaylan Law Firm
Hall Bedrock	NC Chamber
Isabel Rivera-Garcia	NCAR
Kent Daeke	Wake County Onsite Water Protection Section
Henry Jones	Jordan Price
David Heinen	NC Center for Nonprofits
Richard Stevens	SA
Michael Hunsucker	THCG
Patrick Buffkin	NCAEE

VISITOR REGISTRATION SHEET

House Comm on Environment — 07/21/15

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Amanda McQuade	NCChild
Erica Nelson	NCHA
Christine Weason	ACS CAN
Kara Weishaar	SA
Tommy Sevier	MUA
Wellon Toney	Junior Cole
Lynette Sole	NCPHA
Kelly Houston	Eco-Management
Adam Solar	DHHS
Trent Womble	DHHS
Paul Sherman	NCAB

VISITOR REGISTRATION SHEET

House Comm. on Enviroment — 07/21/15

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Kelly Hatcher	Child Fatality Task Force
Ed Turlington	K&L
Elizabeth Schab	NCPHA
Wes Wallace	private citizen
John Preyer	Restoration Systems
Tim Morris	North Carolina Env. Restoration Association
Carr McLamb	TSS
Daniel Ingram	Resource Env. Solutions / NCERA
Jonathan Hill	CTNC
Dave Horne	Smith Anderson
John Dorney	private citizen

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House Comm. on Enviroment — 07/21/15

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Cassie Gavin	Sierra club
Howard Newfeld	Private Citizen
JAY STROUD	N.C. Shellfish Growers Ass.
ROB [illegible]	RLA
JEFF SMITH	SIERRA CLUB C.T.N.C.
Daniel Boyce	Sierra Club
[illegible]	[illegible]
Matt Gray	NCPC
Nancy Lin Pleasants	NC WARN
John Runkle	NC WARN
ALAN DELLAPENNA	NC DPH

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House Comm. on Enviroment — Name of Committee

07/21/15 — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Peter Magner	NCLCV
DAN CRAWFORD	NCLCV
Tonya Hoaton	TSS
MJillian DTolmar	MWCLLC
[illegible]	
Sarah McQuil[illegible]	[illegible]
Kara Hooker	SELC
My Malla Abill	SELC
ROBERT ORR	ATTORNEY
Brooks Rainey Pearson	SELC
Rebekah Given	SELC

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House Comm. on Enviroment — 07/21/15

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mia D. Bailey	ElectriCities
BERRY JENKINS	CAROLINAS AGC
Marc Finlayson	Finlayson Consulting, LLC
Peter Raabe	American Rivers
Bridget Whelan	NC conservation Network
David Kolbacker	NC Board of Nursing
Elizabeth Curlin	NC Board of Nursing
Dan Conrad	NCUC
Cara Townsend	Gov. office
Shelby Armentrout	Gov Office

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House Comm. on Enviroment — Name of Committee

07/21/15 — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Molly Diggins	Sierra Club
Susan Vick	Duke Energy
Craig Foster	Orvis Raleigh
Jacob Thurmond	Orvis Raleigh
Samantha Riccio	Sound Rivers
Matthew Starr	upper Neuse Riverkeeper
[illegible]	Waste Mgt Dudine
[illegible]	WRC
Matthew Docklam	NCDENR
Brad Knott	NC DENR
Mary Penny Kelley	Attorney at Law
Tom Bean	EDF, NCWF

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House Comm. on Enviroment — 07/21/15

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Gordy Mills	NC Conservation Network
Mary Maggie Lee	NCMMC
Laura Wenzel	Medical Advocates for Healthy Air
Brian Taylor	Environment North Carolina
Josh Ehrich	JDA

VISITOR REGISTRATION SHEET

House Comm. on Environment — 07/21/15

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jay Stem	NCAA
Chris McDaniel	KTS

Nancy Fox (Rep. Pat McElraft)

From: Nancy Fox (Rep. Pat McElraft)
Sent: Friday, June 24, 2016 06:42 PM
To: Nancy Fox (Rep. Pat McElraft)
Subject: <NCGA> House Environment Committee Meeting Notice for Tuesday, June 28, 2016 at 10:00 AM
Attachments: Add Meeting to Calendar_LINC_.ics

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2015-2016 SESSION

You are hereby notified that the **House Committee on Environment** will meet as follows:

DAY & DATE: Tuesday, June 28, 2016
TIME: **10:00 AM**
LOCATION: **544 LOB**
COMMENTS: **Rep. McElraft , Presiding**

Respectfully,

Representative Rick Catlin, Co-Chair
Representative Pat McElraft, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 6:26 PM on Friday, June 24, 2016.

___ Principal Clerk
___ Reading Clerk – House Chamber

Nancy Fox (Committee Assistant)

House Committee on Environment
Tuesday, June 28, 2016, 10:00AM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 593	Amend Environmental & Other Laws	Representative McElraft

Adjournment

ATTENDANCE

House Environment Committee

(Nancy Fox___ and Laura Holt-Kabel ___)

DATES															
Rep. Rick Catlin, Chair	✓														
Rep. Pat McElraft, Chair	✓														
Rep. Jay Adams, Vice	✓														
Rep. Nathan Baskerville															
Rep. John Bradford	✓														
Rep. Bill Brawley															
Rep. William Brisson															
Rep. Cecil Brockman	✓														
Rep. Becky Carney															
Rep. Jeff Collins															
Rep. Jimmy Dixon	✓														
Rep. Mike Hager															
Rep. Pricey Harrison, Vice	✓														
Rep. Frank Iler	✓														
Rep. Verla Insko															
Rep. Paul Leubke	✓														
Rep. Grier Martin															
Rep. Chuck McGrady, Vice	✓														
Rep. Chris Millis															
Rep. Bob Steinburg	✓														
Rep. Sarah Stevens	✓														
Rep. Roger West	✓														
Rep. Larry Yarborough	✓														
Staff:															
Jeffrey Hudson	✓														
Mariah Matheson	✓														
Jennifer McGinnis	✓														
Jennifer Mundt	✓														
Chris Saunders	✓														

House Committee on Environment
Tuesday, June 28, 2016 at 10:00AM
Room 544

MINUTES

The House Committee on Environment met at 10:00 on June 28, 2016 in Room 544. Representatives Adams, Bradford, Brockman, Catlin, Dixon, Harrison, Iler, Luebke, McElraft, McGrady, Steinburg, Stevens, West, and Yarborough attended.

Rep. Pat McElraft presided.

HB 593

The meeting was called to order and Rep. McElraft thanked everyone for coming. Sergeant-at-arms, pages, and staff were noticed and thanked for their service.

Rep. Rick Catlin was called to continue chairing the meeting while Rep. McElraft explained HB 593 to the people. Staff members expounded on the bill.

There were debate and discussion on the bill from the members and questions answered by the staff members.

Opened to the public for comments were made by, Tom Bean from Environmental Defense Fund and NC Wildlife Federation, Mollie Young from DEQ, Peter Robb from American Rivers, Brooks Pearson from Southern Environmental Law Center, and Matthew Starr from Upper Neuse Riverkeeper.

Rep. McGrady made a motion to recommend the House do Not concur to HB 593.

The vote was unanimous.

The meeting adjourned at 10:45.

Rep. Pat McElraft/Rep. Rick Catlin
Presiding

Nancy Fox, Committee Clerk

House Committee on Environment
Tuesday, June 28, 2016 at 10:00AM
Room 544

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Rep. Pat McElraft/Rep. Rick Catlin
Presiding

Nancy Fox, Committee Clerk

HOUSE BILL 593

Committee Substitute Favorable 4/21/15
Senate Agriculture/Environment/Natural Resources Committee Substitute Adopted 6/16/16
Senate Rules and Operations of the Senate Committee Substitute Adopted 6/23/16

Short Title: Amend Environmental & Other Laws. (Public)

Sponsors:

Referred to:

April 6, 2015

A BILL TO BE ENTITLED

AN ACT TO AMEND CERTAIN ENVIRONMENTAL, NATURAL RESOURCES, AND OTHER LAWS.

The General Assembly of North Carolina enacts:

PROHIBIT CERTAIN STORMWATER CONTROL MEASURES

SECTION 1.(a) Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to subsection (c) of this section, the Commission and the Department of Environmental Quality shall implement 15A NCAC 02H .0506 (Review of Applications) as provided in subsection (b) of this section.

SECTION 1.(b) Notwithstanding 15A NCAC 02H .0506(b)(5) and 15A NCAC 02H .0506(c)(5), the Director of the Division of Water Resources shall not require the use of on-site stormwater control measures to protect downstream water quality standards, except as required by State or federal law.

SECTION 1.(c) The Environmental Management Commission shall adopt rules to amend 15A NCAC 02H .0506 (Review of Applications) consistent with subsection (b) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (b) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 1.(d) This section is effective when it becomes law. Subsection (b) of this section expires on the date that rules adopted pursuant to subsection (c) of this section become effective.

EXEMPT LANDSCAPING MATERIAL FROM STORMWATER MANAGEMENT REQUIREMENTS

SECTION 2. G.S. 143-214.7(b2) reads as rewritten:

"(b2) For purposes of implementing stormwater programs, "built-upon area" means impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. "Built-upon area" does not include a slatted deck; the water area of a swimming pool; a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches

thick over a geotextile fabric; ~~or~~ a trail as defined in G.S. 113A-85 that is either unpaved or paved as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per ~~hour).~~hour); or landscaping material, including, but not limited to, gravel, mulch, sand, and vegetation, placed on areas that receive pedestrian or bicycle traffic or on portions of driveways and parking areas that will not receive the full weight of vehicular traffic. The owner or developer of a property may opt out of any of the exemptions from "built-upon area" set out in this subsection. For State stormwater programs and local stormwater programs approved pursuant to subsection (d) of this section, all of the following shall apply:

(1) The volume, velocity, and discharge rates of water associated with the one-year, 24-hour storm and the difference in stormwater runoff from the predevelopment and postdevelopment conditions for the one-year, 24-hour storm shall be calculated using any acceptable engineering hydrologic and hydraulic methods.

(2) Development may occur within the area that would otherwise be required to be placed within a vegetative buffer required by the Commission pursuant to G.S. 143-214.1 and G.S. 143-214.7 to protect classified shellfish waters, outstanding resource waters, and high-quality waters provided the stormwater runoff from the development is collected and treated from the entire impervious area and discharged so that it passes through the vegetative buffer and is managed so that it otherwise complies with all applicable State and federal stormwater management requirements.

(3) The requirements that apply to development activities within one-half mile of and draining to Class SA waters or within one-half mile of Class SA waters and draining to unnamed freshwater tributaries shall not apply to development activities and associated stormwater discharges that do not occur within one-half mile of and draining to Class SA waters or are not within one-half mile of Class SA waters and draining to unnamed freshwater tributaries."

STORMWATER CONTROL SYSTEM DESIGN REGULATION

SECTION 3.(a) G.S. 143-214.7B reads as rewritten:

"**§ 143-214.7B. Fast-track permitting for stormwater management systems.**

The Commission shall adopt rules to establish a fast-track permitting process that allows for the issuance of stormwater management system permits without a technical review when the permit applicant (i) complies with the Minimum Design Criteria for stormwater management developed by the Department and (ii) submits a permit application prepared by a qualified professional. In developing the rules, the Commission shall consult with a technical working group that consists of industry experts, engineers, environmental consultants, relevant faculty from The University of North Carolina, and other interested stakeholders. The rules shall, at a minimum, provide for all of the following:

(1) A process for permit application, review, and determination.

(2) The types of professionals that are qualified to prepare a permit application submitted pursuant to this section and the types of qualifications such professionals must have. The Commission shall include the following professionals who meet the North Carolina licensing requirements applicable to the type of stormwater management system proposed:

a. Landscape architects licensed pursuant to Chapter 89A of the General Statutes.

b. Engineers licensed pursuant to Chapter 89C of the General Statutes.

c. Geologists licensed pursuant to Chapter 89E of the General Statutes.

d. Soil scientists licensed pursuant to Chapter 89F of the General Statutes.

e. Any other licensed profession that the Commission deems appropriate.

(3) A process for ensuring compliance with the Minimum Design Criteria.

(4) That permits issued pursuant to the fast-track permitting process comply with State water quality standards adopted pursuant to G.S. 143-214.1, 143-214.7, and 143-215.3(a)(1).

(5) A process for establishing the liability of a qualified professional who prepares a permit application for a stormwater management system that fails to comply with the Minimum Design Criteria."

SECTION 3.(b) The Environmental Management Commission shall amend its rules to implement subsection (a) of this section no later than July 1, 2017.

AMEND STREAM MITIGATION REQUIREMENTS

SECTION 4.(a) The Environmental Management Commission shall amend its rules so that mitigation is not required for losses of 300 linear feet or less of stream bed; for losses of more than 300 linear feet of stream bed, mitigation shall not be required for 300 linear feet of those losses; and a lower mitigation threshold may be applied in the case of a legally binding federal policy. The Commission shall adopt temporary rules as soon as practicable to implement this section.

SECTION 4.(b) During the time period for public comment specified by the Wilmington District of the United States Army Corps of Engineers in its published notice of the proposed 2017 five-year reauthorization of Nationwide Permits issued pursuant to Section 404(e) of the Clean Water Act, the Department of Environmental Quality shall submit written comments to the Washington, D.C., Headquarters and the Wilmington District Office of the United States Army Corps of Engineers on behalf of the State in support of the Wilmington District adopting Regional Conditions that will increase the threshold for the requirement of mitigation for loss of stream bed of perennial or ephemeral/intermittent streams from 150 linear feet to 300 linear feet. The written comments shall include a history of why the current threshold of 150 linear feet exists in North Carolina, shall outline the thresholds that exist in other jurisdictions, and shall note that the State has established a 300 linear foot mitigation threshold.

COASTAL RESOURCES COMMISSION RULES ON TEMPORARY EROSION CONTROL STRUCTURES

SECTION 5.(a) Sections 14.6(p) and 14.6(q) of S.L. 2015-241 are repealed.

SECTION 5.(b) The Coastal Resources Commission shall adopt temporary rules for the use of temporary erosion control structures consistent with the amendments to the temporary erosion control structure rules adopted by the Commission as agenda item CRC-16-23 on May 11, 2016, with any further modifications in the Commission's discretion. The Commission shall also adopt permanent rules to implement this section.

DIRECT THE COASTAL RESOURCES COMMISSION TO AMEND THE SEDIMENT CRITERIA RULE TO EXEMPT SEDIMENT FROM CAPE SHOAL SYSTEMS

SECTION 6.(a) Definitions. – "Sediment Criteria Rule" means 15A NCAC 07H .0312 (Technical Standards for Beach Fill Projects) for purposes of this section and its implementation.

SECTION 6.(b) Sediment Criteria Rule. – Until the effective date of the revised permanent rule that the Coastal Resources Commission is required to adopt pursuant to subsection (d) of this section, the Commission and the Department of Environmental Quality shall implement the Sediment Criteria Rule, as provided in subsection (c) of this section.

SECTION 6.(c) Implementation. – The Commission shall exempt from the permitting requirements of the Sediment Criteria Rule any sediment in the cape shoal systems used as a borrow site and any portion of an oceanfront beach that receives sediment from the cape shoal systems. For purposes of this section, "cape shoal systems" includes the Frying Pan Shoals at Cape Fear, Lookout Shoals at Cape Lookout, and Diamond Shoals at Cape Hatteras.

SECTION 6.(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to amend the Sediment Criteria Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 6.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

DIVISION OF COASTAL MANAGEMENT TO STUDY CURRENT LONG-TERM EROSION RATES ADJACENT TO TERMINAL GROINS

SECTION 7. The Division of Coastal Management of the Department of Environmental Quality, in consultation with the Coastal Resources Commission, shall study the change in erosion rates directly adjacent to existing and newly constructed terminal groins to determine whether long-term erosion rates, currently in effect in accordance with 15A NCAC 07H .0304 (AECS Within Ocean Hazard Areas) should be adjusted to reflect any mitigation of shoreline erosion resulting from the installation of the terminal groins. The Division shall report on the results of the study to the Environmental Review Commission on or before December 31, 2016.

SOLID WASTE AMENDMENTS

SECTION 8.(a) Section 4.9(a) of S.L. 2015-286 reads as rewritten:

"**SECTION 4.9.(a)** Section 14.20(a) of S.L. 2015-241 ~~reads as rewritten:~~is rewritten to read:

...."

SECTION 8.(b) Section 4.9(b) of S.L. 2015-286 reads as rewritten:

"**SECTION 4.9.(b)** Section ~~14.20(a)~~14.20(c) of S.L. 2015-241 ~~reads as rewritten:~~is rewritten to read:

...."

SECTION 8.(c) Section 4.9(c) of S.L. 2015-286 reads as rewritten:

"**SECTION 4.9.(c)** Section 14.20(d) of S.L. 2015-241 ~~reads as rewritten:~~is rewritten to read:

...."

SECTION 8.(d) Section 4.9(d) of S.L. 2015-286 reads as rewritten:

"**SECTION 4.9.(d)** Section 14.20(f) of S.L. 2015-241 ~~reads as rewritten:~~is rewritten to read:

...."

SECTION 8.(e) Section 14.20(e) of S.L. 2015-241 reads as rewritten:

"**SECTION 14.20.(e)** After July 1, 2016, the annual fee due pursuant to ~~G.S. 130A-295.8A(d1),~~G.S. 130A-295.8(d1), as enacted by Section 14.20(c) of this act, for existing sanitary landfills and transfer stations with a valid permit issued before the date this act becomes effective is equal to the applicable annual fee for the facility as set forth in ~~G.S. 130A-295.8A(d1),~~G.S. 130A-295.8(d1), as enacted by Section 14.20(c) of this act, less a permittee fee credit. A permittee fee credit exists when the life-of-site permit fee amount is greater than the time-limited permit fee amount. The amount of the permittee fee credit shall be calculated by (i) subtracting the time-limited permit fee amount from the life-of-site permit fee amount due for the same period of time and (ii) multiplying the difference by a fraction, the numerator of which is the number of years remaining in the facility's time-limited permit and the denominator of which is the total number of years covered by the facility's time-limited permit. The amount of the permittee fee credit shall be allocated in equal annual installments over the number of years that constitute the facility's remaining life-of-site, as determined by the Department, unless the

Department accelerates, in its sole discretion, the use of the credit over a shorter period of time. For purposes of this subsection, the following definitions apply:

(1) Life-of-site permit fee amount. – The amount equal to the sum of all annual fees that would be due under the fee structure set forth in ~~G.S. 130A-295.8A(d1),~~G.S. 130A-295.8(d1), as enacted by Section 14.20(c) of this act, during the cycle of the facility's permit in effect on July 1, 2016.

(2) Time-limited permit fee amount. – The amount equal to the sum of the application fee or renewal fee, whichever is applicable, and all annual fees paid or to be paid pursuant to subsections (c) and (d) of ~~G.S. 130A-295.8A,~~G.S. 130A-295.8, as repealed by Section 14.20(c) of this act, during the cycle of the facility's permit in effect on July 1, 2016.

The Department shall adopt rules to implement this subsection."

SECTION 9.(a) Section 14.20(f) of S.L. 2015-241, as amended by Section 4.9(d) of S.L. 2015-286, reads as rewritten:

"**SECTION 14.20.(f)** This section becomes effective October 1, 2015. G.S. 130A-294(b1)(2), as amended by subsection (a) of this section, applies to franchise ~~agreements~~ agreements (i) executed on or after ~~October 1, 2015.~~ October 1, 2015, and (ii) executed on or before October 1, 2015, only if all parties to a valid and operative franchise agreement consent to modify the agreement for the purpose of extending the agreement's duration to the life-of-site of the landfill for which the agreement was executed. The remainder of G.S. 130A-294, as amended by subsection (a) of this section, and G.S. 130A-295.8, as amended by subsection (c) of this section, apply to (i) existing sanitary landfills and transfer stations, with a valid permit issued before the date this act becomes effective, on July 1, 2016, at which point a permittee may choose to apply for a life-of-site permit pursuant to G.S. 130A-294(a2), as amended by Section 14.20(b) of this act, or may choose to apply for a life-of-site permit for the facility when the facility's permit is next subject to renewal after July 1, 2016, (ii) new sanitary landfills and transfer stations, for applications submitted on or after July 1, 2016, and (iii) applications for sanitary landfills or transfer stations submitted before July 1, 2015, and pending on the date this act becomes law shall be evaluated by the Department based on the applicable laws that were in effect on July 1, 2015, and the Department shall not delay in processing such permit applications in consideration of changes made by this act, but such landfills and transfer stations shall be eligible for issuance of life-of-site permits pursuant to G.S. 130A-294(a2), as amended by Section 14.20(b) of this act, on July 1, 2016, at which point a permittee may choose to apply for a life-of-site permit pursuant to G.S. 130A-294(a2), as amended by Section 14.20(b) of this act, or may choose to apply for a life-of-site permit for the facility when the facility's permit is next subject to renewal after July 1, 2016."

SECTION 9.(b) G.S. 130A-294(b1) reads as rewritten:

"(b1) (1) For purposes of this subsection and subdivision (4) of subsection (a) of this section, a "substantial amendment" means either:

...

(2) A person who intends to apply for a new permit for a sanitary landfill shall obtain, prior to applying for a permit, a franchise for the operation of the sanitary landfill from each local government having jurisdiction over any part of the land on which the sanitary landfill and its appurtenances are located or to be located. A local government may adopt a franchise ordinance under G.S. 153A-136 or G.S. 160A-319. A franchise granted for a sanitary landfill ~~shall~~ shall (i) be granted for the life-of-site of the ~~landfill and shall~~ landfill, but for a period not to exceed 60 years, and (ii) include all of the following:

a. A statement of the population to be served, including a description of the geographic area.

b. A description of the volume and characteristics of the waste stream.

c. A projection of the useful life of the sanitary landfill.
d. Repealed by Session Laws 2013-409, s. 8, effective August 23, 2013.
e. The procedures to be followed for governmental oversight and regulation of the fees and rates to be charged by facilities subject to the franchise for waste generated in the jurisdiction of the franchising entity.
f. A facility plan for the sanitary landfill that shall include the boundaries of the proposed facility, proposed development of the facility site, the boundaries of all waste disposal units, final elevations and capacity of all waste disposal units, the amount of waste to be received per day in tons, the total waste disposal capacity of the sanitary landfill in tons, a description of environmental controls, and a description of any other waste management activities to be conducted at the facility. In addition, the facility plan shall show the proposed location of soil borrow areas, leachate facilities, and all other facilities and infrastructure, including ingress and egress to the facility.

(3) Prior to the award of a franchise for the construction or operation of a sanitary landfill, the board of commissioners of the county or counties in which the sanitary landfill is proposed to be located or is located or, if the sanitary landfill is proposed to be located or is located in a city, the governing board of the city shall conduct a public hearing. The board of commissioners of the county or counties in which the sanitary landfill is proposed to be located or is located or, if the sanitary landfill is proposed to be located or is located in a city, the governing board of the city shall provide at least 30 days' notice to the public of the public hearing. The notice shall include a summary of all the information required to be included in the franchise, and shall specify the procedure to be followed at the public hearing. The applicant for the franchise shall provide a copy of the application for the franchise that includes all of the information required to be included in the franchise, to the public library closest to the proposed sanitary landfill site to be made available for inspection and copying by the public. The requirements of this subdivision shall not apply to franchises amended by agreement of the parties to extend the duration of the franchise to the life-of-site of the landfill, but for a period not to exceed 60 years.

...."

SECTION 9.(c) G.S. 160A-319(a) reads as rewritten:

"**§ 160A-319. Utility franchises.**

(a) A city shall have authority to grant upon reasonable terms franchises for a telephone system and any of the enterprises listed in G.S. 160A-311, except a cable television system. A franchise granted by a city authorizes the operation of the franchised activity within the city. No franchise shall be granted for a period of more than 60 years, ~~except~~ including a franchise granted to a sanitary landfill for the life-of-site of the landfill pursuant to G.S. 130A-294(b1); provided, however, that a franchise for solid waste collection or disposal systems and ~~facilities~~ facilities, other than sanitary landfills, shall not be granted for a period of more than 30 years. Except as otherwise provided by law, when a city operates an enterprise, or upon granting a franchise, a city may by ordinance make it unlawful to operate an enterprise without a franchise."

SECTION 9.(d) G.S. 153A-136 reads as rewritten:

"**§ 153A-136. Regulation of solid wastes.**

(a) A county may by ordinance regulate the storage, collection, transportation, use, disposal, and other disposition of solid wastes. Such an ordinance may:

...

(3) Grant a franchise to one or more persons for the exclusive right to commercially collect or dispose of solid wastes within all or a defined portion of the county and prohibit any other person from commercially collecting or disposing of solid wastes in that area. The board of commissioners may set the terms of any ~~franchise, except that no franchise may be granted for a period exceeding 30 years, nor may any~~ franchise; provided, however, no franchise shall be granted for a period of more than 30 years, except for a franchise granted to a sanitary landfill for the life-of-site of the landfill pursuant to G.S. 130A-294(b1), which may not exceed 60 years. No franchise by its terms may impair the authority of the board of commissioners to regulate fees as authorized by this section.

...."

SECTION 9.(e) Section 9(a) of this act applies to franchise agreements (i) executed on or after October 1, 2015, and (ii) executed on or before October 1, 2015, only if all parties to a valid and operative agreement consent to modify the agreement for the purpose of extending the agreement's duration of the life-of-site of the landfill for which the agreement was executed.

SECTION 10. The Division of Waste Management of the Department of Environmental Quality shall examine whether solid waste management activities in the State are being conducted in a manner most beneficial to the citizens of the State in terms of efficiency and cost-effectiveness, with a focus on solid waste disposal capacity across the State, particularly, areas of the State that have insufficient disposal capacity, as well as areas of the State with disposal capacity that is underutilized, resulting in transport of waste to other jurisdictions. The Department shall develop economic estimates of the short- and long-term costs of waste transport in these situations versus full utilization of capacity, or expansion of capacity, in the originating jurisdiction. The Department shall also provide information on landfill capacity that is permitted but not yet constructed and expansion opportunities for future landfill capacity. The Department shall submit a report, including any legislative recommendations, to the Environmental Review Commission no later than December 31, 2016.

SECTION 11. G.S. 130A-294(a) reads as rewritten:

"**§ 130A-294. Solid waste management program.**

(a) The Department is authorized and directed to engage in research, conduct investigations and surveys, make inspections and establish a statewide solid waste management program. In establishing a program, the Department shall have authority to:

...

(4) a. Develop a permit system governing the establishment and operation of solid waste management facilities. A landfill with a disposal area of 1/2 acre or less for the on-site disposal of land clearing and inert debris is exempt from the permit requirement of this section and shall be governed by G.S. 130A-301.1. Demolition debris from the decommissioning of manufacturing buildings, including electric generating stations, that is disposed of on the same site as the decommissioned buildings, is exempt from the permit requirement of this section and rules adopted pursuant to this section and shall be governed by G.S. 130A-301.3. The Department shall not approve an application for a new permit, major permit modification, or a substantial amendment to a permit for a sanitary landfill, excluding demolition landfills as defined in the rules of the Commission, except as provided in subdivisions (3) and (4) of subsection (b1) of this section. No permit shall be granted for a solid waste management facility having discharges that are point sources until the Department has referred the complete plans and specifications to the Commission and has received advice in

writing that the plans and specifications are approved in accordance with the provisions of G.S. 143-215.1. In any case where the Department denies a permit for a solid waste management facility, it shall state in writing the reason for denial and shall also state its estimate of the changes in the applicant's proposed activities or plans that will be required for the applicant to obtain a permit.

b. Repealed by Session Laws 2007-550, s. 1(a), effective August 1, 2007.

c. The Department shall deny an application for a permit for a solid waste management facility if the Department finds that:

1. Construction or operation of the proposed facility would be inconsistent with or violate rules adopted by the Commission.
2. Construction or operation of the proposed facility would result in a violation of water quality standards adopted by the Commission pursuant to G.S. 143-214.1 for waters, as defined in G.S. 143-213.
3. Construction or operation of the facility would result in significant damage to ecological systems, natural resources, cultural sites, recreation areas, or historic sites of more than local significance. These areas include, but are not limited to, national or State parks or forests; wilderness areas; historic sites; recreation areas; segments of the natural and scenic rivers system; wildlife refuges, preserves, and management areas; areas that provide habitat for threatened or endangered species; primary nursery areas and critical fisheries habitat designated by the Marine Fisheries Commission; and Outstanding Resource Waters designated by the Commission.
4. Construction or operation of the proposed facility would substantially limit or threaten access to or use of public trust waters or public lands.
5. The proposed facility would be located in a natural hazard area, including a floodplain, a landslide hazard area, or an area subject to storm surge or excessive seismic activity, such that the facility will present a risk to public health or safety.
6. There is a practical alternative that would accomplish the purposes of the proposed facility with less adverse impact on public resources, considering engineering requirements and economic costs.
7. The cumulative impacts of the proposed facility and other facilities in the area of the proposed facility would violate the criteria set forth in sub-sub-subdivisions 2. through 5. of this sub-subdivision.
8. Construction or operation of the proposed facility would be inconsistent with the State solid waste management policy and goals as set out in G.S. 130A-309.04 and with the State solid waste management plan developed as provided in G.S. 130A-309.07.
9. The cumulative impact of the proposed facility, when considered in relation to other similar impacts of facilities located or proposed in the community, would have a disproportionate adverse impact on a minority or low-income community protected by Title VI of the federal Civil Rights Act of 1964.

This subdivision shall apply only to the extent required by federal law.

d. Management of land clearing debris burned in accordance with 15A NCAC 02D.1903 shall not require a permit pursuant to this section.

e. For the purpose of the disposal of leachate and wastewater collected from a sanitary landfill, the Department shall approve aerosolization of such leachate and wastewater as an acceptable method of disposal. Aerosolization of leachate or wastewater that results in effluent free-production or a zero liquid discharge does not constitute a discharge that requires a permit under either Article 21 or Article 21B of Chapter 143 of the General Statutes."

SECTION 12. Except as otherwise provided, Sections 8 and 9 of this act are effective retroactively to July 1, 2015. Sections 10, 11, and 12 are effective when this act becomes law.

FARRIERS/HORSESHOEING

SECTION 13. G.S. 90-187.10 is amended by adding a new subdivision to read:

"**§ 90-187.10. Necessity for license; certain practices exempted.**

No person shall engage in the practice of veterinary medicine or own all or part interest in a veterinary medical practice in this State or attempt to do so without having first applied for and obtained a license for such purpose from the North Carolina Veterinary Medical Board, or without having first obtained from the Board a certificate of renewal of license for the calendar year in which the person proposes to practice and until the person shall have been first licensed and registered for such practice in the manner provided in this Article and the rules and regulations of the Board.

Nothing in this Article shall be construed to prohibit:

...

(11) Any farrier or person actively engaged in the activity or profession of shoeing hooved animals as long as his or her actions are limited to the art of shoeing hooved animals or trimming, clipping, or maintaining hooves."

WILDLIFE RESOURCES COMMISSION, DIVISION OF MARINE FISHERIES, AND UTILITIES COMMISSION PRIVATE IDENTIFYING INFORMATION

SECTION 14.(a) G.S. 143-254.5 reads as rewritten:

"**§ 143-254.5. Disclosure of personal identifying information.**

Social security numbers and identifying information obtained by the Commission shall be treated as provided in G.S. 132-1.10. For purposes of this section, "identifying information" also includes a person's mailing address, residence address, e-mail address, Commission-issued customer identification number, date of birth, and telephone number."

SECTION 14.(b) G.S. 143B-289.52(h) reads as rewritten:

"**§ 143B-289.52. Marine Fisheries Commission – powers and duties.**

...

(h) Social security numbers and identifying information obtained by the Commission or the Division of Marine Fisheries shall be treated as provided in G.S. 132-1.10. For purposes of this subsection, "identifying information" also includes a person's mailing address, residence address, e-mail address, Commission-issued customer identification number, date of birth, and telephone number."

SECTION 14.(c) Chapter 132 of the General Statutes is amended by adding a new section to read:

"**§ 132-1.14. Personally identifiable information of public utility customers.**

(a) Except as otherwise provided in this section, a public record, as defined by G.S. 132-1, does not include personally identifiable information obtained by the Public Staff of the Utilities

Commission from customers requesting assistance from the Public Staff regarding rate or service disputes with a public utility, as defined by G.S. 62-3(23).

(b) The Public Staff may disclose personally identifiable information of a customer to the public utility involved in the matter for the purpose of investigating such disputes.

(c) Such personally identifiable information is a public record to the extent disclosed by the customer in a complaint filed with the Commission pursuant to G.S. 62-73.

(d) For purposes of this section, "personally identifiable information" means the customer's name, physical address, e-mail address, telephone number, and public utility account number."

SECTION 14.(d) This section becomes effective October 1, 2016.

REGULATION AND DISPOSITION OF CERTAIN REPTILES

SECTION 15.(a) G.S. 14-419 reads as rewritten:

"**§ 14-419. Investigation of suspected violations; seizure and examination of reptiles; disposition of reptiles.**

(a) In any case in which any law-enforcement officer or animal control officer has probable cause to believe that any of the provisions of this Article have been or are about to be violated, it shall be the duty of the officer and the officer is authorized, empowered, and directed to immediately investigate the violation or impending violation and to consult with representatives of the North Carolina Museum of Natural Sciences or the North Carolina Zoological Park or a designated representative of either the Museum or Zoological Park to identify appropriate and safe methods to seize the reptile or reptiles involved, to seize the reptile or reptiles involved, and the officer is authorized and directed to deliver: (i) a reptile believed to be venomous to the North Carolina State Museum of Natural Sciences or to its designated representative for examination for the purpose of ascertaining whether the reptile is regulated under this Article; and, (ii) a reptile believed to be a large constricting snake or crocodilian to the North Carolina Zoological Park or to its designated representative for the purpose of ascertaining whether the reptile is regulated under this Article. In any case in which a law enforcement officer or animal control officer determines that there is an immediate risk to public safety, the officer shall not be required to consult with representatives of the North Carolina Museum of Natural Sciences or the North Carolina Zoological Park as provided by this ~~subsection.~~subsection and may kill the reptile.

(b) If the Museum or the Zoological Park or their designated representatives find that a seized reptile is a venomous reptile, large constricting snake, or crocodilian regulated under this Article, the Museum or the Zoological Park or their designated representative shall determine ~~final~~an interim disposition of the reptile in a manner consistent with the safety of the public, ~~which in~~until a final disposition is determined by a court of competent jurisdiction. In the case of a venomous reptile for which antivenin approved by the United States Food and Drug Administration is not readily available, ~~shall~~ the reptile may be euthanized unless the species is protected under the federal Endangered Species Act of 1973. Where the Museum or the Zoological Park or their designated representative determines euthanasia to be the appropriate interim disposition, or where a reptile seized pursuant to this Article dies of natural or unintended causes, the Museum, the Zoological Park, or their designated representatives shall not be liable to the reptile's owner.

(b1) Upon conviction of any offense contained in this Article, the court shall order a final disposition of the confiscated venomous reptiles, large constricting snakes, or crocodilians, which may include the transfer of title to the State of North Carolina and reimbursement for the necessary expenses incurred in the seizure, delivery, and storage thereof.

(c) If the Museum or the Zoological Park or their designated representatives find that the reptile is not a venomous reptile, large constricting snake, or crocodilian regulated under this Article, and either no criminal warrants or indictments are initiated in connection with the reptile within 10 days of initial seizure, or a court of law determines that the reptile is not being owned, possessed, used, transported, or trafficked in violation of this Article, then it shall be the duty of

the law enforcement officer to return the reptile or reptiles to the person from whom they were seized within 15 days."

SECTION 15.(b) The North Carolina Department of Natural and Cultural Resources and the North Carolina Wildlife Resources Commission shall jointly study and develop a list of potential designated representatives for the storage and safekeeping of venomous reptiles, large constricting snakes, or crocodilians.

SECTION 15.(c) The North Carolina Department of Natural and Cultural Resources and the North Carolina Wildlife Resources Commission shall jointly study and develop recommendations for potential procedural and policy changes to improve the regulation of certain reptiles pursuant to Article 55 of Chapter 14 of the General Statutes. The Department and the Commission shall consider public health and safety risks, permitting requirements, exemptions, notification of escape, investigation of suspected violations, seizure and examination of reptiles, disposition of seized reptiles, and any other issues determined relevant to the regulation of certain reptiles. The Department and the Commission shall submit a report, including any legislative recommendations, to the Environmental Review Commission no later than December 31, 2016.

PROVIDE FOR LOW-FLOW DESIGN ALTERNATIVES FOR PUBLIC WATER SUPPLY SYSTEMS

SECTION 16.(a) 15A NCAC 18C .0409(b)(1) (Daily Flow Requirements). – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (c) of this section, the Commission, the Department of Environmental Quality, and any other political subdivision of the State shall implement 15A NCAC 18C .0409(b)(1) (Daily Flow Requirements) as provided in subsection (b) of this section.

SECTION 16.(b) Implementation. – Notwithstanding the Daily Flow Requirements rates listed in Table No. 1 of 15A NCAC 18C .0409(b)(1) (Daily Flow Requirements), a public water supply system shall be exempt from the Daily Flow Requirements, and any other design flow standards established by the Department or the Commission, provided the flow rates that are less than those required in Table No. 1 of 15A NCAC 18C .0409(b)(1) (Daily Flow Requirements) are (i) achieved through an engineering design that utilizes low-flow fixtures and low-flow reduction technologies and the design is prepared, sealed, and signed by a professional engineer licensed pursuant to Chapter 89C of the General Statutes and (ii) provide for a flow that is sufficient to sustain the water usage required in the engineering design.

SECTION 16.(c) Additional Rule-Making Authority. – The Commission shall adopt a rule to amend 15A NCAC 18C .0409(b)(1) (Daily Flow Requirements), consistent with subsection (b) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (b) of this section. Rules adopted pursuant to this section are not subject to G.S. 150B-21.8 through G.S. 150B-21.14. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 16.(d) Sunset. – Subsection (b) of this section expires on the date that rules adopted pursuant to subsection (c) of this section become effective.

COPIES OF CERTAIN PUBLIC RECORDS

SECTION 18.(a) G.S. 132-6.2 reads as rewritten:

"**§ 132-6.2. Provisions for copies of public records; fees.**

(a) Persons requesting copies of public records may elect to obtain them in any and all media in which the public agency is capable of providing them. No request for copies of public records in a particular medium shall be denied on the grounds that the custodian has made or prefers to make the public records available in another medium. The public agency may assess different fees for different media as prescribed by law.

(a1) Notwithstanding subsection (a) of this section, a public agency may satisfy the requirement to provide access to public records and computer databases under G.S. 132-6 by making those public records or computer databases available online in a format that allows a person to download the public record or computer database to obtain a copy. A public agency that provides access to public records or computer databases under this subsection is not required to provide copies through any other method or medium. If a public agency, as a service to the requester, voluntarily elects to provide copies by another method or medium, the public agency may negotiate a reasonable charge for the service with the requester. A public agency satisfying its requirement to provide access to public records and computer databases under G.S. 132-6 by making those public records or computer databases available online in a format that allows a person to obtain a copy by download shall also allow for inspection of any public records also held in a nondigital medium.

(b) Persons requesting copies of public records may request that the copies be certified or uncertified. The fees for certifying copies of public records shall be as provided by law. Except as otherwise provided by law, no public agency shall charge a fee for an uncertified copy of a public record that exceeds the actual cost to the public agency of making the copy. For purposes of this subsection, "actual cost" is limited to direct, chargeable costs related to the reproduction of a public record as determined by generally accepted accounting principles and does not include costs that would have been incurred by the public agency if a request to reproduce a public record had not been made. Notwithstanding the provisions of this subsection, if the request is such as to require extensive use of information technology resources or extensive clerical or supervisory assistance by personnel of the agency involved, or if producing the record in the medium requested results in a greater use of information technology resources than that established by the agency for reproduction of the volume of information requested, then the agency may charge, in addition to the actual cost of duplication, a special service charge, which shall be reasonable and shall be based on the actual cost incurred for such extensive use of information technology resources or the labor costs of the personnel providing the services, or for a greater use of information technology resources that is actually incurred by the agency or attributable to the agency. If anyone requesting public information from any public agency is charged a fee that the requester believes to be unfair or unreasonable, the requester may ask the State Chief Information Officer or his designee to mediate the dispute.

(c) Persons requesting copies of computer databases may be required to make or submit such requests in writing. Custodians of public records shall respond to all such requests as promptly as possible. If the request is granted, the copies shall be provided as soon as reasonably possible. If the request is denied, the denial shall be accompanied by an explanation of the basis for the denial. If asked to do so, the person denying the request shall, as promptly as possible, reduce the explanation for the denial to writing.

(d) Nothing in this section shall be construed to require a public agency to respond to requests for copies of public records outside of its usual business hours.

(e) Nothing in this section shall be construed to require a public agency to respond to a request for a copy of a public record by creating or compiling a record that does not exist. If a public agency, as a service to the requester, voluntarily elects to create or compile a record, it may negotiate a reasonable charge for the service with the requester. Nothing in this section shall be construed to require a public agency to put into electronic medium a record that is not kept in electronic medium.

(f) For purposes of this section, the following definitions shall apply:

(1) Computer database. – As defined in G.S. 132-6.1(d)(1).

(2) Media or Medium. – A particular form or means of storing information."

SECTION 18.(b) The State Chief Information Officer, in consultation with the State Controller, the Office of State Budget and Management, Local Government Commission, The University of North Carolina, The North Carolina Community College System, The School of

Government at the University of North Carolina at Chapel Hill, the North Carolina League of Municipalities, the North Carolina School Boards Association, and the North Carolina County Commissioners Association, shall report, including any recommendations, to the 2017 Regular Session of the General Assembly on or before February 1, 2017, regarding the development and use of computer databases by State and local agencies and the need for public access to those public records.

SECTION 18.(c) This section becomes effective July 1, 2016.

PROHIBIT CITIES FROM CHARGING FEES FOR UTILITY USE OF RIGHT-OF-WAY

SECTION 19. G.S. 160A-296 reads as rewritten:

"**§ 160A-296. Establishment and control of streets; center and edge lines.**

(a) A city shall have general authority and control over all public streets, sidewalks, alleys, bridges, and other ways of public passage within its corporate limits except to the extent that authority and control over certain streets and bridges is vested in the Board of Transportation. General authority and control includes but is not limited to all of the following:

...

(6) The power to regulate, license, and prohibit digging in the streets, sidewalks, or alleys, or placing therein or thereon any pipes, poles, wires, fixtures, or appliances of any kind either on, above, or below the surface. To the extent a municipality is authorized under applicable law to impose a fee or charge with respect to activities conducted in its rights-of-way, the fee or charge must apply uniformly and on a competitively neutral and nondiscriminatory basis to all comparable activities by similarly situated users of the rights-of-way. No fee or charge for activities conducted in the right-of-way shall be assessed on businesses listed in G.S. 160A-206(b), except to the extent a city's right-of-way management expenses related to the activities of those businesses exceed distributions under Article 5 of Chapter 105 of the General Statutes.

...."

ALLOW THE FEDERAL GOVERNMENT TO PUMP STANDING STORMWATER FROM FEDERAL LANDS INTO THE OCEAN

SECTION 20. G.S. 143-214.7 is amended by adding a new subsection to read:

"(d3) Notwithstanding any other provision of State law and except as required by federal law, no State agency or unit of local government shall prohibit a unit of the federal government from pumping standing stormwater from federal land that is located landward of a primary dune over the dune and into the ocean. Pursuant to this section, all State agencies and units of local government shall grant all necessary approvals to a unit of the federal government to pump standing stormwater from federal land that is located landward of a primary dune over the dune and into the ocean. Such approvals shall be granted within 24 hours of the request for the approval, and failure to grant an approval within 24 hours shall be deemed as an approval of the request."

SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 21. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part declared to be unconstitutional or invalid.

SECTION 22. Except as otherwise provided, this act is effective when it becomes law.

HOUSE BILL 593:
Amend Environmental & Other Laws.

2016-2017 General Assembly

Committee:
Introduced by:
Analysis of: Fourth Edition

Date: June 27, 2016
Prepared by: Jeff Hudson, Erika Churchill, Jennifer McGinnis, Jennifer Mundt, Chris Saunders, Layla Cummings, Legislative Staff

SUMMARY: House Bill 593 would amend a number of State laws related to environmental, natural resources, and other regulations.

BILL ANALYSIS:

PROHIBIT CERTAIN STORMWATER CONTROL MEASURES

Section 1 would prohibit the Director of the Division of Water Resources in the Department of Environmental Quality (DEQ) from requiring the use of on-site stormwater control measures to protect downstream water quality standards unless required to do so by State or federal law.

EXEMPT LANDSCAPING MATERIAL FROM STORMWATER MANAGEMENT REQUIREMENTS

Section 2 would exempt from the definition of built-upon area for purposes of implementing stormwater programs, landscaping material, including but not limited to gravel, mulch, sand, and vegetation, placed on areas that receive pedestrian or bicycle traffic or on portions of driveways and parking areas that will not receive the full weight of vehicular traffic. Section 2 would also allow the owner or developer of property to opt out of any of the exemptions from built-upon area.

STORMWATER CONTROL SYSTEM DESIGN REGULATION

Section 3 would amend the statutes governing fast-track permitting for stormwater management to direct the Environmental Management Commission to revise its rules, by July 1, 2017, to include the following licensed professionals as qualified to prepare a stormwater management system permit without a technical review, so long as the application complies with the Minimum Design Criteria:

- Landscape architects.
- Professional engineers.
- Geologists.
- Soil scientists.
- Any other licensed professional that the EMC deems appropriate.

Karen Cochrane-Brown
Director

H593-SMSB-60 E4 -V-2

Legislative Analysis Division
919-733-2578

AMEND STREAM MITIGATION REQUIREMENTS

Section 4 would direct the Environmental Management Commission to amend its rules so that mitigation is not required for losses of 300 linear feet or less of stream bed; for losses of more than 300 linear feet of stream bed, mitigation shall not be required for 300 linear feet of those losses; and a lower mitigation threshold may be applied in the case of a legally binding federal policy. Section 4 would also direct DEQ to submit comments to the United States Army Corps of Engineers in support of the Corps increasing the threshold for mitigation from 150 linear feet to 300 linear feet.

COASTAL RESOURCES COMMISSION RULES ON TEMPORARY EROSION CONTROL STRUCTURES

Section 5 would repeal a directive in the 2015 Appropriations Act that required the Coastal Resources Commission (CRC) to adopt updated rules for the use of sandbags by December 2015. The updated rules were approved at the May 2016 meeting of the CRC. This section would direct the CRC to adopt those rules as temporary rules.

DIRECT THE COASTAL RESOURCES COMMISSION TO AMEND THE SEDIMENT CRITERIA RULE TO EXEMPT SEDIMENT FROM CAPE SHOAL SYSTEMS

Section 6 would direct the CRC to amend the sediment criteria rule to allow sand from the cape shoals to be used as ocean beach nourishment without undergoing permitting requirements. Sand used for beach nourishment must be similar in quality and grain size as the area being nourished and the rule requires sediment samples to be taken from both the borrow site and recipient beach to determine if the sediment source is compatible.

DIVISION OF COASTAL MANAGEMENT TO STUDY CURRENT LONG-TERM EROSION RATES ADJACENT TO TERMINAL GROINS

Section 7 would direct the Division of Coastal Management in DEQ, in consultation with the CRC, to study whether the long-term erosion rates should be modified in and around newly constructed terminal groins. Long-term erosion rates are evaluated by the Division about every five years and are used to determine setbacks for oceanfront development.

SOLID WASTE AMENDMENTS

Sections 8 and 9 would: (i) make technical, clarifying, and conforming changes to provisions enacted in 2015 to establish life-of-site permits for sanitary landfills and transfer stations; (ii) provide that franchise agreements previously executed by local governments for sanitary landfills may be modified by agreement of all parties to a valid and operative franchise to last for a landfill's life-of-site; (iii) provide that a public hearing would not be required for a franchise modified to extend the duration of the franchise to the life-of-site of a landfill, and (iv) provide that no franchise agreement for a sanitary landfill, modified or newly executed, shall exceed a duration of 60 years.

Section 10 would require the Division of Waste Management in DEQ to study landfill capacity and usage issues, as well as cost issues associated with transport of waste due to lack of, or underutilized, landfill capacity in a jurisdiction. The Department must submit a report, including any legislative recommendations, to the Environmental Review Commission (ERC) by December 31, 2016.

Section 11 would modify the statute governing permitting authority of DEQ over establishment and operation of solid waste management facilities to require the Department to approve aerosolization as an acceptable method of disposal for leachate wastewater collected from a sanitary landfill. In addition, this section would provide that aerosolization of leachate or wastewater that results in effluent free-production or a zero liquid discharge does not constitute a discharge that requires a permit under the air or water permitting statutes.

Section 12 would provide that Sections 8 and 9 would be effective retroactively to July 1, 2015, and that Sections 10 and 11 would become effective when the act becomes law.

FARRIERS/HORSESHOEING

Section 13 would clarify that a farrier or any person engaged in the activity or profession of shoeing hooved animals does not require a license from the North Carolina Veterinary Medical Board, provided that the person's actions are limited to shoeing hooved animals or trimming, clipping, or maintaining hooves.

WILDLIFE RESOURCES COMMISSION, DIVISION OF MARINE FISHERIES, AND UTILITIES COMMISSION PRIVATE IDENTIFYING INFORMATION

Section 14 would, effective October 1, 2016, provide that customer e-mail addresses received, and customer identification numbers issued, by the Wildlife Resources Commission (WRC) and the Marine Fisheries Commission are considered "identifying information" and may not be made available to the public. This section would also provide that any customer's name, physical address, email address, telephone number, or public utility account number received by the Public Staff of the Utilities Commission is not a public record, and may only be disclosed for the purpose of investigating a complaint against a public utility by the customer.

REGULATION AND DISPOSITION OF CERTAIN REPTILES

Section 15.(a) would provide that if the North Carolina Museum of Natural Sciences (Museum) or the North Carolina Zoological Park (Zoo) finds that a seized illegally-owned reptile is a venomous reptile, large constricting snake, or a regulated crocodilian, the Museum or the Zoo must determine the interim disposition of the seized reptile until a final disposition is determined by a court. The Museum or Zoo are not liable to the owner of the reptile if the Museum or Zoo determines euthanasia to be the appropriate interim disposition, or if the seized reptile dies of natural or unintended causes. Upon conviction of any violation of Article 55 of Chapter 14 of the General Statutes (Regulation of Venomous Reptiles), the court shall issue a final disposition of the confiscated reptiles, which may include transfer of title to the State of North Carolina and reimbursement for the cost of seizure, delivery, and storage of the reptiles. This section would also authorize law enforcement officers or animal control officers to kill a dangerous reptile if the officer determines that there is an immediate threat to public safety.

Section 15.(b) would direct the Department of Natural and Cultural Resources (DNCR) and WRC to study and develop a list of potential designated representatives for the storage and safekeeping of venomous reptiles, large constricting snakes, or crocodilians.

Section 15.(c) would direct DNCR and WRC to study and make recommendations to the ERC by December 1, 2016, on potential procedural and policy changes to improve the regulation of dangerous reptiles.

PROVIDE FOR LOW-FLOW DESIGN ALTERNATIVES FOR PUBLIC WATER SUPPLY SYSTEMS

Section 16 would amend the North Carolina Administrative Code to exempt a public water supply system from the Daily Flow Requirements as provided by Table No. 1 of 15A NCAC 18C .0409(b)(1), provided the flow rates that are less than those required by the rule are (i) achieved through an engineering design that utilizes low-flow fixtures and low-flow reduction technologies and the design is prepared, sealed, and signed by a professional engineer licensed pursuant to Chapter 89C of the General Statutes and (ii) provide for a flow that is sufficient to sustain the water usage required in the engineering design.

COPIES OF CERTAIN PUBLIC RECORDS
Section 18 would, effective July 1, 2016, provide that a public agency that makes its public records and computer databases available online, in a format that is downloadable, satisfies the requirement to allow persons access to public records, and is not required to provide copies through any other method or medium. That public agency may, but is not required to, provide copies by another method or in another medium and may negotiate a charge for that service if they so opt.

PROHIBIT CITIES FROM CHARGING FEES FOR UTILITY USE OF RIGHT-OF-WAY
Section 19 would prohibit a city from imposing a fee on gas, telecommunications, electricity, or video programming utilities for activities conducted in a right-of-way, unless the costs for those activities exceeds the amount the city has collected for sales and use tax.

ALLOW THE FEDERAL GOVERNMENT TO PUMP STANDING STORMWATER FROM FEDERAL LANDS INTO THE OCEAN
Section 20 would provide that except that as required by federal law, no State agency or unit of local government may prohibit a unit of the federal government from pumping standing stormwater from federal land into the ocean.

SEVERABILITY CLAUSE AND EFFECTIVE DATE
Section 21 contains a severability clause.

EFFECTIVE DATE: Except as otherwise provided, this act would be effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES

ENVIRONMENT COMMITTEE REPORT
Representative Rick Catlin, Co-Chair
Representative Pat McElraft, Co-Chair

RECOMMEND HOUSE NOT CONCUR

HB **593** **(SCS#2)** Amend Environmental & Other Laws.

Draft Number:	None
Serial Referral:	None
Recommended Referral:	None
Long Title Amended:	No
Floor Manager:	McElraft

TOTAL REPORTED: 1

HOUSE PAGES
(ENVIRONMENT)

Week of June 27-30, 2016

Name:	County:	Sponsor:
SALLY CUMMINGS	WAKE	SPEAKER TIM MOORE
HOPE HARRINGTON	WAKE	REP. STAM
JOSEPH LACKEY	WAKE	REP. MARTIN
MILES LEE	NEW HANOVER	SPEAKER TIM MOORE

LOB

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VISITOR REGISTRATION SHEET

Environment — 06-28-2016

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Bob Heath	McGuireWoods
Sharon Corbett	Chatham County
Jerry Schill	NC FB
Doug Lassiter	NCSTA
Allen Hardison	NC SWMAA
Andy Ellen	NCRMA
Preston Howard	NCMA
Dave Thom	SA
Tommy Stevens	Stevens Lobby
Elizabeth Robinson	NCRMA
Lexi Arthur	NCRMA
Rob Lamm	RLA

VISITOR REGISTRATION SHEET

ENVIRONMENT — 06-28-2016

Name of Committee — Date

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NAME	FIRM OR AGENCY AND ADDRESS
Bailey Breckenwald	NCLM
Erin Wynia	NCLM
Johanna Reese	NCACC
Isabel Villa-Garcia	NC REALTORS
Cady Thomas	Focus Carolina
Lisa Martin	Cap. Ad
Phil Carter	Waste Industries
Natalya Arej	NCSEA
Jenna Clark	NWF
Martha Jenkins	DNCR
Erin Riddick	DNCR

VISITOR REGISTRATION SHEET

Environment — 06-28-2016

Name of Committee — Date

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NAME	FIRM OR AGENCY AND ADDRESS
Kevin V. Howell	DNCR

VISITOR REGISTRATION SHEET

Environment — 06-28-2016

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Caroline Thomas	DEQ
[illegible]	DEQ
Randall Estes	NC Conservation Network
Molly Diggins	Sierra Club
Cassie Gavin	Sierra Club
Matthew Starr	Riverkeeper
[illegible]	SELC
Brooks Rainey Pearson	SELC
John Hardin	MFS
Chris Broughton	MWC
Katy Kingsbury	BP

VISITOR REGISTRATION SHEET

ENVIRONMENT — 06-28-2016

Name of Committee — Date

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NAME	FIRM OR AGENCY AND ADDRESS
Sarah [illegible]	SSG NC
Vanessa Waller	American Rivers
Mia Bailey	ElectriCities
Meg Miller	AMBA
Tom Beans	EDF, NCWF
DAN CRAWFORD	NCLCV
Jesse Way	NCLCV
Meredith Frenchmeyer	NCCN
Caroline Dorey	Governors Office
Hannah Tedder	DHHS
Tonya Horton	TSS